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ABSTRACT

This report focuses on one of the Elementary and Secondary Education Act (ESEA) programs--Title III, the program for educational innovation. As shown by studies and reports dealing with the amount of involvement and participation of nonpublic school children in Title III programs, the general picture of past performance is bleak. There are notable exceptions, but nonpublic schools generally have not been involved as equitable and effective participants in Title III programs. One reason for this may be that many of the problems took a long time to surface. Title III has been one of the lesser known of the ESEA programs, particularly at the local level. It has only been within the past several years that strong voices have been raised about the inequitable treatment under Title III for children attending nonpublic schools. The bulk of this report presents details on the amount of participation and involvement that have been reported in various studies, recommendations for improvement, the kinds of arrangements and programs that are working, happenings at the federal and state level that relate to nonpublic school participation, a profile of one state, and the regulations on participation as contained in Title IV of ESEA. (Author/IRT)

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THE NONPUBLIC SCHOOLS AND ESEA TITLE III

A Special Report by
The National Advisory Council on
Supplementary Centers and Services

April, 1975

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CHAPTER I

OVERVIEW

In passing the Elementary and Secondary Education Act of 1965 (ESEA), Congress intended that nonpublic schools as well as public schools would benefit from the categorical aid programs. Now, 10 years later, Congress has reaffirmed its intention by including stronger provisions in the Education Amendments of 1974. The reason: Congressional intent to benefit the children and teachers in private, nonprofit (nonpublic) schools as well as those in public schools has been thwarted under some of the federal aid programs.

This report focuses on only one of the ESEA programs--Title III, the program for educational innovation. As shown by studies and reports dealing with the amount of involvement and participation of nonpublic school children in Title III programs, the general picture of past performance is bleak.

There are notable exceptions, but nonpublic schools generally have not been involved as equitable and effective participants in Title III programs. Congress was presented with testimony to this effect in 1969, and witnesses from nonpublic schools and organizations reiterated this view again in 1973. In addition, a survey for this report of nonpublic school representatives on Title III State Advisory Councils reveals "minimal involvement" in many of the 30 states which responded.

Why is this so? One reason may be that many of the problems took a long time to surface. Title III has been one of the lesser known of the ESEA programs, particularly at the local level. It has only been within the past several years that strong voices have been raised about the inequitable treatment under Title III for children attending nonpublic schools.

One such strong voice, that of the U.S. Catholic Conference, brought the problem to the attention of the U.S. Congress. In 1969, Edward D'Alessio of the U.S. Catholic Conference, testified that children and teachers from the nonpublic schools were participating "equally and equitably" with their public school counterparts in only one ESEA program--Title II (libraries and learning resources). He estimated that 95 percent of the eligible children in the nonpublic sector were receiving Title II benefits.

At the same time, D'Alessio cited the problems that had arisen between public and nonpublic sectors in trying to administer ESEA, including the following:

- o Subordination of the nonpublic schools to the public schools.
- o Problems over placement of educational materials and equipment in nonpublic schools.
- o Lack of communication between the two sectors especially at the SEA (state education agency) level.
- o Restrictive state constitutions.
- o Mutual misunderstanding of the purpose of ESEA.
- o Utilization of the dual criterion of educational and economical deprivation for selection of nonpublic school students.
- o Noninvolvement of nonpublic authorities in determining the needs of eligible students attending their schools.
- o Lack of a "contact person" in the nonpublic sector.
- o Conflicting personalities.
- o Difference between programs as planned and agreed upon and as implemented.
- o Lack of opportunity for evaluation by the nonpublic school authorities.
- o Problems with scheduling and location of activities.
- o Problems in defining attendance areas.
- o Lack of involvement of appropriate nonpublic school administrators in planning programs for which nonpublic school children are eligible.

WHAT DID CONGRESS INTEND?

One of the key issues that blocked passage of federal legislation to aid elementary and secondary schools prior to 1965 was the fear of federal entanglement in the area of religion. The delicate issue was debated pro and con prior to the passage of the ESEA legislation.

Sen. Wayne Morse of Oregon sought clarity of what was allowed or restricted by the First Amendment to the Constitution, which says, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof...."

Morse was advised by legal counsel to the Department of Health, Education and Welfare that the First Amendment "does not require government to be hostile to religion nor does it permit governmental discrimination against religious activity. The objective is neutrality," HEW advised, "however difficult it may be to be neutral or to determine what neutrality requires in relation to particular factual situations."

Congress had four intents in pressing for the passage of ESEA, according to John F. Hughes, the director of ESEA Title I during its first four years. They were:

- o To find a formula that would direct substantial federal funds to schools.

- To reflect the incidence of poverty.

- To provide for the participation of private school children.

- To bring together the various forces supporting education--forces that "frequently cancel each other out in terms of their lobbying effectiveness."

To accomplish these goals and to assure passage, the legislation had to be built on compromise. It had to gain the support mainly of two groups: the National Catholic Welfare Conference and the National Education Association, long an opponent of granting federal aid to nonpublic schools.

John Gardner headed the task force that put together the proposed language of Title III. One of the task force's recommendations was that Title III funds be allowed for institutions outside the traditional school building, or what the task force called "supplementary centers and services."

A key issue concerned the legality of making funds available to private schools for special education centers. Behind closed doors, an executive committee changed the wording in the Title III language to stipulate that the supplementary centers could not be run by private agencies. To appease the nonpublic school representatives, the House Committee specified that nonpublic school teachers and children were to be allowed to participate in the programs, which would be under the control of the local education agencies.

The legislation was pushed through the Congress with no amendments, after compromise was reached with the various education groups. Title I, the categorical program that aids disadvantaged children, held the key to passage of the entire package of programs included under ESEA because it was based on the "child benefit theory." Title I was intended to benefit disadvantaged children, whether they were in the public or the nonpublic schools.

The "child benefit theory" had passed muster with the Supreme Court in its 1947 ruling in the case of Everson v. Board of Education of Ewing Township, et al. In the case, a taxpayer named Everson challenged a local practice in Ewing Township of reimbursing parents for the fares their children paid to ride on a public bus to a nonpublic school. The issue, Everson said, was separation of church and state. The Court did not agree. It said the state of New Jersey contributed no money to the nonpublic (Catholic) schools involved and it ruled that children attending such schools could participate in the benefit from services similar to those already benefitting children who attended public schools.

There are sharp differences in the legal provisions on Title III compared with other categorical programs included under ESEA. Some of these differences account for the amount of participation by nonpublic school children. For one, Title III is not restricted to serving the poor or

disadvantaged child. Such a restriction, the arguments ran in Congressional committee sessions, would defeat the major purpose of this innovative portion of the legislation. Title III grants are made on a competitive basis, unlike Title I which targets money on the basis of educational disadvantage or Title II, under which schools receive money for books and library materials based on enrollment. Under Title III, local school districts submit project proposals on a competitive basis to the state education agency.

Title III has probably been subject to more change in its provisions and in its identity than any other ESEA categorical program--which may account for why many nonpublic school administrators have, until recently, been largely unaware of its provisions. Even the legal name of the program, "Supplementary Centers and Services," does not reflect its true purpose. Under the original legislation for Title III, the federal government administered the program to the local school districts. Within two years after passage of the legislation, however, the states were pushing for control of the program. With the strong backing of the chief state school officers and the National Education Association, the legislation was amended to allow the states to administer 75 percent of the funds allocated for the program, starting in fiscal 1969.

The 1967 Amendments to the program also changed its emphasis. Supplementary centers and services were deemphasized and "innovative and exemplary programs" came into the limelight. Each state was required to submit a "state plan" to the U.S. Office of Education detailing how the program would be administered during the fiscal year.

The 1967 Amendments added a potentially potent requirement to the Title III legislation: "Persons broadly representative of the cultural and educational resources of the area" were to participate in the development of projects. Such persons, the legislation said, could be drawn from "state education agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television and other cultural and educational resources." These persons, the Committee said, were to be involved in <u>planning</u>, <u>establishing</u> and <u>carrying out</u> the program.

In 1970, the Title III program was to undergo even further change as a result of the passage of the Education Amendments of 1969. Title V-A of the National Defense Education Act (guidance, counseling and testing) was consolidated with Title III. Eighty-five percent of the funds were to flow to the states, and 15 percent of the funds were set aside for the discretionary use of the Commissioner to fund innovative and exemplary programs. The Commissioner was charged with providing for the participation of private school children in Title III programs in any state that substantially failed or could not legally provide for such participation.

Under the amendments, Congress sought to protect the right of nonpublic school children to benefit from federally funded programs by making

the state education agency responsible for insuring participation and involvement of the nonpublic schools at the local level.

However, various studies conducted in the next couple of years indicated minimal or weak involvement.

Two years after passage of the amendments, the National Advisory Council on Supplementary Centers and Services warned in its Annual Report to the President and the Congress that "several states are not meeting the requirements of Title III legislation" on the involvement of nonpublic school children in local projects. The National Advisory Council pointed out that nonpublic school officials in some states "have not been given an opportunity to be involved in the planning and children have not been allowed to take part in the programs." The Council included a recommendation that "the chief state school officers take the necessary action to insure the inclusion of nonpublic school children and teachers in projects in which they are eligible to participate."

In that same year, 1971, the subject of aid to the nonpublic schools was receiving considerable attention at high levels due to the closing and consolidation of nonpublic schools, particularly Catholic schools, as the dollar squeeze became more severe. President Nixon was advised on the situation by his Panel on Nonpublic School Finance. "If declines (in nonpublic school enrollment) continue, pluralism in education will cease, parental options will virtually terminate and public schools will have to absorb millions of American students. The greatest impact will be on some seven of our most populous states and on large urban centers, with especially grievous consequences for poor and lower middle-class families in racially changing neighborhoods where the nearby nonpublic school is an indispensable stabilizing factor.

"The social and economic costs to the nation are too high to bear when compared to the lesser costs for effective public intervention."

The Panel included among its major recommendations "the strict enforcement of the Elementary and Secondary Education Act so all children received the full benefits to which they are entitled." The Panel added: "Because the crisis is most acutely felt by church-related schools, notably Roman Catholic, the Panel has given serious attention to the Constitutional issue. It is persuaded that although direct aid to nonpublic schools is prohibited, aid to parents and to children will pass muster."

THE STATE PLAN MANUAL GIVES DETAILS ON PARTICIPATION

The State Plan Manual set forth the requirements on nonpublic school participation to be met by the state in administering Title III. In defining participation, for example, the State Plan Manual said that "nonpublic school children are to be served on an equitable basis in all Title III

projects, including those in the areas of guidance and counseling, to the extent consistent with the number of children enrolled in private nonprofit schools in the area to be served whose educational needs are of the type provided by the program or project. These children benefit from the program or projects through direct participation, observation, visitation and dissemination of information."

Other provisions on participation, as detailed in the State Plan, include the following:

- The State Plan was to contain satisfactory assurance from the state education agency that it was making Title III grants only to local education agencies that were providing for effective participation of nonpublic school children.

- Private school representatives were to be asked if they wanted to participate in Title III programs by the local education agency submitting the project proposal.

- Private school representatives were "to be included in the local needs assessment and in the planning of projects at the very beginning so that the needs of private school children are considered in conjunction with the needs of public school children prior to the development of a proposal."

- The state was charged with monitoring each approved Title III project which involves private school children to "assure that it benefits the same percentage of eligible private school children...as the percentage of public school children benefitted by the project."

- "Provisions for serving private school children shall not include payment of salaries to teachers of private schools except for services performed outside regular hours of duty and under public supervision and control, financing of the existing level of instruction in private schools, the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day, and the construction of facilities for private schools."

- "Whenever practicable," the Manual says, educational services shall be provided to private school children on publicly controlled premises.

- State education agencies were to require local education agencies to include in every project application information indicating: the number of private schools and of the children attending those schools in the area served by the project, "the existence of any factors which limit the appropriateness of the project for private school children," how nonpublic school representatives were involved in developing the project proposal, the place and the manner in which private school children were to participate in the project,

the differences, if any, in the kind and extent of services to be provided private school children as compared with those provided public school children.

- Private school teachers may receive payments with Title III funds for travel allowances, luncheon expenses and similar costs when attending approved Title III inservice training."

- A complaint procedure was established which, if fully carried out, required the Commissioner to "bypass" the state in providing appropriate benefits to the eligible nonpublic school children.

- Grants were to be made only to "a legally constituted public local educational agency, not to an individual private school or private nonprofit corporation."

What happens, however, has led many nonpublic school administrators to the conclusion that the rules are not followed on the state or local level.

The reasons for inadequate participation by nonpublic school children and teachers are varied. As indicated in interviews and testimony, the reasons range from lack of knowledge of the legal provisions to fear of state constitutional provisions to sheer neglect and deliberate "overlooking" of nonpublic schools. On the other hand, some nonpublic school spokesmen say their schools have not been aggressive enough or administratively strong enough to take a strong lead themselves in getting involved.

In a few places, the question is less one of administrative avoidance than one of administrative helplessness. Legally, administration of Title III programs for participants in public and nonpublic schools is the responsibility of the local education agency (public school district). One nonpublic school administrator said he just didn't have the heart to ask public school administrators to add to their already impossible situation of trying to run a notoriously bad big-city district by taking on responsibility for serving nonpublic school children.

Nonpublic school administrators say more frequently, however, that their problem in not being included in appropriate Title III programs is due to neglect or "overlooking" on the part of the public schools. As stated by Rev. Michael O'Neill in the Jan. 25, 1975 issue of America, the problem "is less one of bad will than of institutional psychology." According to regulations governing administration of the program, nonpublic school officials are supposed to be involved in any proposed project from the day that the public school starts to design the project in initial planning sessions. What generally happens is detailed by Father O'Neill: "When the public school educator comes up with a Title III idea, he understandably thinks primarily and often exclusively of his own clientele--public school students, teachers and parents. After working out the idea in some detail, he comes to the final proposal-writing stage and then

remembers that the private schools have to be involved." What happens, says Father O'Neill and many other nonpublic school administrators, is that the public school administrator may call the local nonpublic school and ask if it wants to be involved in a Title III project. With no opportunity to participate in planning, the nonpublic schools are often involved to a minimal degree--if at all--in the project.

Also included in the report are recommendations for the improvement of participation and involvement. Many of the recommendations were made by nonpublic school representatives on Title III Advisory Councils. In some instances, both the nonpublic school representative and another official from the state presented their views on the amount and degree of involvement in programs by the state's nonpublic schools. Sometimes, both parties gave a similar analysis of conditions within the program. In other instances, stark differences show up. One representative reported that the involvement of nonpublic school children was not only "weak" but practically nonexistent, while an official in the State Department of Education reported that programs which successfully involved public and nonpublic students were "too numerous to mention."

The balance of the report details the amount of participation and involvement that have been reported in various studies, recommendations for improvement, the kinds of arrangements and programs that are working, happenings at the federal and state level that relate to nonpublic school participation, a profile of one state and the regulations on participation as contained in Title IV of ESEA.

THE FUTURE: MORE INVOLVEMENT?

Although Title III will no longer be a categorical program under the Education Amendments of 1974, Congress has specified that innovation is to be a main thrust of the new Title IV consolidation in which it is included (Part C, "Educational Innovation and Support"). As in 1965, nonpublic school officials are once again pinning their hopes on ESEA. Congressional intent, as specified in the amendments to ESEA seems clear: Nonpublic school children and teachers are to participate equitably in the programs as specified in the law. Further, Congress believes such participation to be Constitutional.

CHAPTER II

WHO GOES TO THE NONPUBLIC SCHOOLS?

In 1970-71, 10 percent of the nation's school children were attending nonpublic schools, according to Statistics of Nonpublic Elementary and Secondary Schools, published by the U.S. Department of Health, Education and Welfare. In round numbers, 5.1 million children were enrolled in more than 16,000 nonpublic schools, with almost half of them located in urban cities.

Most of the students were attending schools affiliated with one of the following religious groups: Baptist, Christian Reformed, Friends, Jewish, Lutheran, Methodist, Presbyterian, Episcopal, Roman Catholic or Seventh-Day Adventist. As shown in the following table approximately 80 percent of the students were enrolled in Roman Catholic schools.

Nonpublic School Enrollments By Religious Affiliation
1960-62, 1965-66, 1970-71

	1960-62	1965-66	1970-71
Roman Catholic	5,120,932	5,481,325	4,134,299
Lutheran	151,476	188,521	200,914
Seventh-Day Adventists	58,048	62,603	53,527
Jewish	39,830	52,589	65,335
Protestant Episcopal	30,516	48,582	73,393
Christian Reformed	39,964	42,275	29,486
Baptist	16,574	25,189	35,098
Friends	8,814	10,572	13,784
Methodist	4,882	5,622	10,760
Presbyterian	4,335	4,766	7,489
Other	21,158	41,458	52,299
Total Church-Related	5,496,529	5,963,502	4,676,384
Not Church-Related	239,951	341,270	467,674
Total Nonpublic	5,736,480	6,304,772	5,144,058

NOTE: Statistics from National Center for Educational Statistics.

Trying to come up with accurate current breakdowns of enrollment by religious affiliation is considered "chancy" at best, particularly for the religious-affiliated schools other than Catholic and for new private, community and alternative schools. "We really don't have a data base for private schools in the federal government and we don't have continuing information on the population of these schools, the number of schools, the enrollments, or the teachers," says Dwight Crum, USOE's Director of Nonpublic Educational Services. Furthermore, HEW's practice of doing a statistical report of the nonpublic schools every five years (such as the one mentioned above) seems to have been abandoned. The last report compiled figures for 1970-71, which means a new report should have been done for the 1974-75 school year. Prospects are dim for that to happen, however, unless Congress assigns the report to one of the education research agencies.

Current information is available on the Catholic schools, due to the annual data collections and compilation by the National Catholic Educational Association. NCEA reports, for example, that Catholic schools and Catholic school students were heavily concentrated in seven states in 1973-74: New York, 549,900 students; Pennsylvania, 382,500 students; Illinois, 334,000 students; California, 263,400 students; Ohio, 253,200 students; New Jersey, 228,400 students; Michigan, 151,100 students.

While these seven states account for 60 percent of the total enrollment of Catholic schools, another seven enroll another 20 percent of the total. These states are Massachusetts, Wisconsin, Missouri, Louisiana, Minnesota, Indiana and Texas.

Almost 55 percent of Catholic school students are found in 20 dioceses. Chicago leads the list with 234,700 Catholic students, and San Francisco takes last place among the 20 with 48,100 students. In between are Philadelphia, Brooklyn, New York, Los Angeles, Detroit, Newark, Boston, Cleveland, Pittsburgh, St. Louis, Cincinnati, Rockville (Long Island, New York), Milwaukee, Buffalo, Trenton, New Orleans, Baltimore and St. Paul-Minneapolis.

The number of Catholic schools dropped to 10,269 in 1973-74 after an all-time high of 13,205 only ten years earlier, NCEA reports. The number of students attending Catholic schools also has dropped, from 5.6 million in 1963 to 3.6 million in 1973.

CHAPTER III

HOW MUCH PARTICIPATION IN TITLE III?

Trying to determine the amount and the degree of participation by nonpublic school children in Title III programs presents serious difficulties. In fiscal 1973, the states reported to USOE that more than 1.58 million nonpublic school students participated directly or indirectly in Title III programs. The total amount of participation reported by the states for that year, for both public and nonpublic students, was 19.5 million students. Yet, USOE officials express serious doubts about the accuracy of the reports. They advise that the figures cannot be taken at face value.

This is not a newly recognized fact, however. Back in the beginning of the program, John Kleffner, then a member of the National Advisory Council, warned:

> There is not a high correlation between fact and report when it comes to nonpublic school participation, at least regarding my experience. You need to know not only the number of students who participated but also the amount of participation by each student.

What Constitutes Participation?

"Direct Participation" is defined by USOE as face-to-face interaction of pupils and teachers designed to produce learning in a classroom, a center or mobile unit, or receiving other special services.

"Indirect Participation" is not really defined; instead it is illustrated by a number of examples. Indirect participation could include visits to exhibits, demonstrations, museum displays; the use of materials or equipment developed or purchased by the project; attendance at performances of plays, symphonies; viewing television instruction in a school, a center or home; or participation in other similar activities.

Each state must submit the number of nonpublic and public school participants in Title III projects in its Annual State Plan to USOE. USOE notes in the instructions, however, for preparing the State Plan that "carefully prepared estimates are acceptable."

REPORTS AND TESTIMONY ON PARTICIPATION

To our knowledge, there has been no comprehensive nationwide survey on the scope of participation of nonpublic school children in Title III programs. Information is available only in bits and pieces. Yet a conclusion can be drawn that participation is, for the most part, inadequate and inequitable.

Following are summaries of two studies that have been presented in testimony before Congressional committees, as well as additional testimony. Also summarized are a survey on involvement by the Lutheran Church-Missouri Synod, a doctoral dissertation on participation in the state of North Carolina, and a survey conducted especially for this report.

Study by Reverend Charles Laferty

Rev. Charles Laferty conducted his research on the question of nonpublic school involvement in Title III at the request of the National Advisory Council on Supplementary Centers and Services. His conclusions are based on responses from 37 percent of all Title III projects (approximately 544) in 1970. He reported the following:

- 38.5 percent of the projects in 1970 had proportionate participation by nonpublic school children.
- 15.1 percent had significantly lower participation by nonpublic school children than student populations in the project area indicated as proportional.
- 32.6 percent had no participation by nonpublic school children.
- 13.8 percent gave no numerical data for either public or nonpublic school children.

Father Laferty's major finding, he said, was that one project in four showed a significant lack of participation by nonpublic school children.

Study by the Harvard Graduate School of Education

To gain input on the impact of block grants and revenue sharing on nonpublic schools, researchers from the Harvard Graduate School of Education conducted a national survey of Catholic diocesan school superintendents in October 1970. Approximately 86 percent (132) of the 154 Catholic dioceses responded to the questions on participation of Catholic school children in Titles I, II and III.

When asked what percentage of the eligible children in their diocese were participating in Title III programs, the superintendents responded as follows:

- 12 percent reported no participation.

- 41 percent reported that approximately 20 percent of the children were involved in Title III programs.

- 16 percent reported that 20 to 40 percent of the children were involved.

- 2 percent reported 100 percent of their children were participating in Title III programs, whereas 22 percent reported 100 percent eligibility.

By contrast, 44 percent of the Catholic dioceses reported that 100% of the eligible children were participating in Title II, and 34 percent reported that at least 80% of the children were participating in Title II.

Sixty-seven percent of those responding to the survey said there was poor implementation of Title III in their diocese, with 27 percent calling it "good" and 6 percent, "excellent." By contrast, 49 percent called Title II implementation "excellent" (7 percent did so on Title I), and 46 percent called Title II implementation "good" (compared with 47 percent for Title I).

Survey: Lutheran Church-Missouri Synod

More than one-third of the elementary schools (345 schools enrolling 55,881 students) under the Lutheran Church-Missouri Synod responded to a survey on the participation of Lutheran elementary school children federally funded programs. (Approximately, 1,300 elementary and secondary schools were affiliated with the Lutheran Church-Missouri Synod in 1973, serving over 165,000 students. The schools are located in many parts of the country and approximately 10 percent of the pupils are non-white and nearly one-third are not members of the church body, according to the organization's Secretary of Elementary and Secondary Schools, Al H. Senske.)

The results of the survey of the elementary schools do not indicate wide involvement in Title III programs. For example, 260 of the schools reported that none of their students or teachers had participated in an innovative project during the 1973-74 school year. The questionnaire used to gather the information did not ask, however, how many of the schools were located in the area of a local education agency that was operating a Title III project. Twenty-three schools, involving 537 students and teachers, said they were involved in Title III projects.

Administrators of 57 schools said their state educational agency had not provided a testing program which benefitted their students, while 22 said the state did so for them. The last question in the Lutheran Church survey asked if guidance and counseling services had been provided by the local education agency under a Title III program. Nineteen schools replied in the affirmative, 176, in the negative.

A Report on North Carolina: Reverend Donald F. Staib

"My findings reveal a picture of nonpublic school participation that was far from adequate and gave little evidence that the high hopes of public and nonpublic school cooperation in ESEA Title III had been realized in the State of North Carolina," concluded Reverend Donald F. Staib in his 1973 doctoral dissertation.

Father Staib based his conclusion on an examination of project proposals for 1969 and 1972, personal on-site evaluations during 1968-69, questionnaires to project directors and Catholic school principals, and on-site visits to four projects which were described in his dissertation. Father Staib has been a member of the North Carolina State Advisory Council on Title III for six years, five of them as chairman. He has seven years' experience as a Catholic high school administrator, four years' experience as superintendent of Catholic schools for the Raleigh Diocese.

The greatest problem to surface from his investigations, Father Staib reported, "was the lack of adequate planning for Title III projects and the fact that nonpublic school administrators rarely were involved in planning beyond the token level." He noted, however, that in conducting his research he found a "residue of concern on the part of both Catholic principals and public officials, on both the state and local level, that some action needed to be taken to offset the poor record of past years."

Specifically, Father Staib found only two Catholic schools that were involved in Title III projects in fiscal 1972. During that year, 38 projects were funded by the state, 12 of them located in areas in which there were 19 Catholic schools. In these districts, eight of the twelve project directors admitted they had not invited the nonpublic school representatives to participate in planning sessions.

Twenty-five project directors told Father Staib the State Title III staff had not discussed with them the possibility of involving the nonpublic schools in the planning sessions for the projects. In ten of the twenty-five project areas, moreover, there was a Catholic school.

The involvement of nonpublic school children in North Carolina in Title III is still "weak," according to Father Staib, although he says there has been slightly more involvement "as a result of the insistence of the State Department of Education" in funding recent projects.

A Word on the Hebrew Schools

Rabbi Bernard Goldenberg, Associate Director of the National Society for Hebrew Day Schools, is outspoken in his criticism of the lack of involvement of children attending Hebrew schools in Title III projects. "The absence of innovative practices and supplementary centers for Jewish school children in (New York City) day schools has worked to the disadvantage of the entire community," he told the House Subcommittee on Education in November 1969.

Rabbi Goldenberg reaffirmed his criticism in a January 1975 statement he prepared for this report. Speaking for over 400 schools in 160 cities, with a student enrollment of approximately 80,000, Goldenberg said "the major problem that nonpublic schools face in availing themselves of Title III benefits is their dependence on the good graces of LEA officials.

"In New York City, where there are some 400,000 nonpublic school pupils, he said, "representatives of the nonpublic school system find themselves in

the position of paupers who must wait submissively for a few crumbs from the table of the public school officialdom. Proposals are formulated without any serious effort to determine whether there is an effective way in which nonpublic school pupils can participate. There is virtually no attempt to identify common needs so that proposals can be designed with a reasonable measure of equity.

"In practice," Rabbi Goldenberg charges, "Title III has become the private domain of the public school with both subtle and not-so-subtle barriers to the nonpublic school population. Unless there is a legal requirement that nonpublic school systems be recognized as equal partners in Title III enterprises, this patent discrimination will persist with increasing frustrations and exasperations on the part of the nonpublic school systems...."

Congressional Testimony by the U.S. Catholic Conference

As the executive agency of the Catholic Bishops of the United States, the U.S. Catholic Conference (USCC) is the agency Congress listens to regarding the Catholic viewpoint on legislation. According to USCC, Title III has not done its part in providing equitable services for nonpublic school children.

"Title III is a point of very serious concern among Catholic school educators," testified Edward R. D'Alessio, USCC's Director of Elementary and Secondary Education, at hearings of the House and Senate committees on education in 1973.

"We view the problem (of participation of Catholic school children in Title III programs) as primarily administrative in nature at the level of the U.S. Office of Education as well as at the state and local educational agency levels," D'Alessio stated.

USCC surveyed Catholic superintendents of schools on their opinions of Title III. Seventy-seven percent of the 129 respondents said Title III should be "legislatively strengthened" to provide for effective participation on an equitable basis for nonpublic school children and teachers, D'Alessio told the Congressmen. Twelve percent said Title III should be dropped and 8 percent concluded that it should be allowed to remain as presently written, he added.

Additional testimony, mostly negative, was presented to the Committees by representatives of nonpublic schools in various parts of the nation. Following are examples of what the Congressmen heard:

"In the State of Texas," said Sister Caroleen Hensgen, superintendent of the Dallas-Fort Worth Catholic schools, "Title III federal funds have been wedded to state funds to develop 20 educational regional centers. Salaries of the professionals are paid with government funds, while the equipment is supplied by state funds. Therefore, we (nonpublic school participants) are able to make use of the expertise of the staff, but unable to use the resources of the centers without a two dollar per capita cost to us because of earmarked funds."

A different picture was presented by Msgr. Eugene Molloy, secretary of education for the Brooklyn, New York, diocese. As the representative of all the different nonpublic schools in New York City as well as the Catholic schools, Monsignor Molloy testified that $78 million was spent in Title I programs in New York City, but only $3 million (4 percent) was used for nonpublic school children in poverty areas where they comprised 14 percent of the total. And, he said, 1.5 percent of Title III funds were spent on 30 percent of the children who attended nonpublic schools, while the other 98.5 percent of the funds were spent on the other 70 percent of New York City's school population.

Nonpublic School Representatives Report 'Minimal' Involvement

In doing this report, the National Advisory Council queried the nonpublic school representatives on the Title III state advisory councils on the degree of participation and involvement in Title III projects in their states. (The list of nonpublic school representatives is included in the Appendix.)

The representatives were asked two specific questions on the amount and degree of involvement. The first question was: "In your view, which word most closely describes the degree of participation and involvement of the nonpublic schools in Title III projects in your state?" Respondents were asked to check one of the following: None; Weak; Minimal Involvement; Moderate Involvement; Good Involvement; Superior Involvement.

The second question asked: "In your view, is the nonpublic school community more involved, less involved, or involved to about the same degree as when you joined the council?"

Twelve of the 30 nonpublic school representatives who responded to the query reported "minimal" involvement: six reported "good" participation and involvement; 7 reported either no involvement or weak involvement; one reported "moderate" involvement. Three states reported that participation and involvement ranged from minimal to moderate to good, depending on the project or the section of the state.

Of prime interest are the comments from council members who indicate a change in the degree of involvement of the nonpublic schools due to their efforts as a council member. Some of the newcomers to the councils--those with two years' experience or less--as well as some of those who have been council members for much longer periods of time feel that their efforts in representing the nonpublic school interests are paying off.

Arizona: Sister Dorothy Ann Doyle reports there is more involvement since she joined the council five years ago, but she still describes it as "minimal." She notes that the directors of Title III projects in the state "began to realize that a nonpublic school council member was aware of their programs."

Arkansas: Rev. William M. Beck, a member of the Council since it was formed eight to nine years ago, says, "this advisory council has more and

more emphasized to project directors the necessity for giving nonpublic schools an opportunity to participate."

Delaware: William Kehoe, who is assistant superintendent of the Wilmington Diocese as well as a council member, says, "I wear two hats and push our principals to get involved in proposal developments, even if the public schools 'forget' to involve them."

Florida: Rev. Jerome E. Diffley reports good involvement, about the same as when he joined the council two years ago.

Guam: Sister Bernadette Prochaska reports good involvement, adding that 1,320 nonpublic school children were directly involved in a testing program in 1973-74.

Illinois: M. P. Heller reports minimal involvement, with no change since he joined the council two years ago.

Indiana: Rev. James F. Seculoff says: "It seems that since the LEA's control the management of the program, it is difficult to find public school personnel who will make the necessary effort for nonpublic school children. They will make plans without asking nonpublic administrators and then make their finalized program 'available' to nonpublic schools if they wish to participate. If the nonpublic school initiates a program, it must clear the LEA and be financed, etc., through the LEA--a 'pain in the neck' to LEA personnel."

Kentucky: Joseph M. McGee reports that the Catholic schools in the state have been more involved in the past two years. "Other private schools have remained uninvolved, mostly by choice."

Louisiana: Charles Fortier reports that 3,500 nonpublic school children and 50,000 public school children were directly involved in Title III projects in 1973-74.

Maine: Arthur Dexter reports involvement is minimal, but "I have not been involved for any length of time to have input."

Michigan: Although reporting minimal involvement, Msgr. H. H. Zerfas sees a change for the better for two reasons: "continuous prodding on my part," and "changes in ESEA."

Mississippi: A one-year veteran of the Mississippi council, Sister Mary Cyrena Harkins, backs up her claim of "weak" involvement with statistics. She says only 209 nonpublic school children, contrasted with 17,789 public school children, were directly involved in Title III programs during 1973-74.

Missouri: Msgr. Gerard L. Poelker, with eight years' service on the Council, sees a change for the better in Missouri's Title III programs. ..."There is greater understanding on the part of the 14-member advisory board. The change of Missouri Commissioner of Education has been advantageous. My presence alone has afforded greater opportunity for gaining

knowledge by the other members of the advisory board and the State Department of Education Title III staff."

Montana: Rev. John J. McCoy reports a considerable amount of closing of parochial schools in his state, which lessens the degree of involvement in projects. In 1974-75, he reports, 8,277 public school children and 174 nonpublic school children were directly involved in Title III projects.

Nebraska: Rev. Thomas F. O'Brien, a council member for three years, says the amount of involvement depends on the school district. "I sincerely believe," he says, "that there is more involvement because of the strong support of other advisory council members and the state Title III office."

New Hampshire: Sister Jacqueline Hebert reports that no nonpublic school children were directly involved in Title III projects in 1973-74. She adds: "Most of the Title III projects are large planning grants or model grants and for the past four years none of our schools has been in the areas where these grants were functioning.... We have closed so many schools lately that the programs have been unable to help our children.... The (State) Title III Office does set aside $30,000 for mini-grants for teachers in any school. Just a few of our nonpublic school teachers wrote up such projects; therefore, one cannot blame the federal or state government for that fact."

New Jersey: Joseph R. Fittipaldi says "In certain locales, the amount of involvement ranges from none to good." In the 1972-73 school year, 50,704 children from public schools and 1,718 from nonpublic schools participated in Title III programs. He reports more involvement than when he joined the council three years ago for the following reasons: (1) an active educational program directed at both the public and nonpublic sectors regarding rules, regulations and the law; (2) changes in the application to include specific questions relating to nonpublic school involvement; (3) providing the public schools with a list of the nonpublic schools in their area; and (4) providing the nonpublic schools with a list of requests for applications by the public schools, so the nonpublic school can take the initiative in making contact.

New Mexico: Joan Gusinow, a member of the New Mexico council as well as a member of the Nonpublic School Task Force for the State Department of Education, says involvement in her state is weak, but that the nonpublic school community is becoming more involved.

New York: Sister Joan Arnold, who has served on the council for three years reports that the nonpublic school community is more involved than before she joined the council. "My attendance has been more regular at council meetings than was the attendance of my predecessor," she reports. "I think I was able to make council members more aware of the importance of involving nonpublic schools and they worked in various ways to increase that involvement." In 1973-74, Sister Joan reports, 67,570 public school children and 5,594 nonpublic school children were directly involved in Title III projects.

North Carolina: Rev. Donald F. Staib notes a slight increase in the involvement of the nonpublic school community "as a result of the insistence of the State Department when funding the current projects."

North Dakota: Rev. Raymond Aydt reports minimal involvement with no change in the two years he has been a council member. He says, however, there is no problem in the state and that the State Department treats the public and the nonpublic schools alike.

Oklahoma: David Monahan, who has resigned the Oklahoma council to be replaced by Sister Rose Clare Stieve, reports that "perhaps 150" participants from the nonpublic schools were involved in the state's Title III projects in 1973-74 through teacher development activities.

Oregon: Sister Laura Jean Remington reports no change in the minimal amount of involvement in the year and a half she has been on the council. She says 100 nonpublic school children and 16,000 public school children were directly involved in Title III projects in 1972-73.

Pennsylvania: Rev. Paul F. Curran reports good involvement, backed up by statistics: 884,000 public school children and 256,000 nonpublic school children were directly involved in Title III projects during 1973-74. He adds: "I believe that my own long-continued and active involvement at the state level has heightened awareness of nonpublic schools, their rights and their role and value within the total educational community."

South Dakota: Sister Faith Sitzmann passed on the following figures from the State Title III office: 3,249 children from the public schools and 274 children from nonpublic schools were directly involved in Title III programs in 1973-74.

Vermont: Richard K. Lane, headmaster of Austin School for the Deaf and a member of the Vermont council, reports the involvement of 2,638 nonpublic school children and 25,880 public school children in Title III projects during 1973.

Washington: Sister Virginia McMonagle, a member of the Washington Title III council for three of its eight years, reports "extremely weak" involvement and participation by the nonpublic schools, although she does note a "slight improvement" since she joined the council. She adds that 45,000 nonpublic school children should have been involved in Title III projects in 1973-74. "Very few, I believe, were actually involved."

West Virginia: Reverend Robert H. Wanstreet sees an improvement in the "minimal involvement" of nonpublic schools for two reasons: "At the state level, the existence of nonpublic schools is equitably acknowledged and respected;" and "contacts at the local level have been acknowledged at the state level."

Wyoming: Sister Mary Rachel Flynn reports minimal involvement, about the same as when she joined the council two years ago.

In Summary

The amount and degree of involvement as reported in the foregoing studies is for the most part poor. This is the picture that emerged from the two studies conducted at the university level in 1970 by Father Laferty and the Harvard Graduate School of Education. Father Staib also found participation to be far from adequate when he combined his search for information for his doctoral dissertation with his activities as chairman of the Title III State Advisory Council.

In addition, what has been reported to Congress and what the non-public school representatives on the State Advisory Councils reported to us on survey forms support the contention that involvement is for the most part spotty and in need of vast improvement.

CHAPTER IV

WHY IS PARTICIPATION POOR?

The most frequent reason given by nonpublic school administrators for "poor" participation is "lack of involvement" in planning for the projects. They cite many additional reasons, however, that reveal problems at the federal, state and local levels.

THE LOCAL LEVEL

The local level is "the scene of the action," in the words of one nonpublic school administrator, and here is where many of the problems arise. Nonpublic school administrators charge they are being discriminated against; overlooked; counted as participants when they do not even know of the existence of the project; that they are at the mercy of the differing local interpretations of federal and state laws and regulations; and, sometimes, that they are the victims of "gross dishonesty, hypocrisy, insensitivity to the needs of private school children and general lack of imagination about all education."

By contrast, where there are reports of "good participation" the reason is most often quoted to be "a long tradition of cooperation between nonpublic and public education." A superintendent of a diocese in the Northeast section of the country told researchers from the Harvard Graduate School of Education that "good will is one of the chief factors in the successful participation of nonpublic schools in federal programs. The law, like so many others, provides loopholes for persons who lack this good will to 'graciously' avoid the responsibilities of administering the law fairly."

Lack of Involvement in Planning

The nonpublic school representative on the Montana State Title III Council details what happens when the nonpublic schools are not involved in the initial planning for an innovative project: "Because of the timing of applications, applicants have a maximum of three months to prepare the application. Usually nonpublic schools are not brought into the picture until the last month and then are expected to provide information such as needs documentation and staffing patterns. When this occurs, nonpublic school representatives usually acquiesce and decide not to actively participate in the project but rather to receive project prepared materials and inservice training."

Sometimes, says Delaware nonpublic school representative, William Kehoe, "the public school may 'accidentally' forget to include the nonpublic school in meetings, both planning and inservice."

Rev. Thomas F. O'Brien of the Nebraska State Council says the nonpublic schools are not involved in the initial planning because the tendency still exists to think of public school children and then, maybe, to think of the nonpublic school children, instead of thinking of all children."

A different problem is cited by Jerome Porath, Government Coordinator for the St. Louis archdiocese. Porath says the biggest problem he sees is for the nonpublic school administrators in a local area to get a complete hearing before the local board of education. "Unless we are dealing with a public school administrator who is interested in open discussion, we don't have a chance in getting our ideas considered." What we face sometimes, he adds, is a public school staff member who "is on an ego trip." The staff member wants his idea accepted as he has presented it, with no modifications. A chain of events then takes over, Porath notes. The recommendation comes before the board of education; the board defers to the decision of the superintendent; and he in turn naturally backs the staff member. What we need, the St. Louis coordinator adds, is a hearing before the board of education on the needs of the local nonpublic school children--before any decisions on proposals are made.

Programs that Are Not Suitable to Nonpublic School Needs

The Title III regulations state that nonpublic school students and teachers may participate in the local Title III project if they have similar needs. If the nonpublic school administrators are not involved in planning, however, the chances of nonpublic school needs exactly matching those of the public school are considerably reduced. What happens, one Midwest superintendent told the Harvard researchers, is that "nonpublic school needs, with rare exception, are neither assessed nor met."

"The nature of some projects," says Arkansas nonpublic school representative William Beck, "is such that they can only be carried out in public schools. The time element, along with transportation, make it impossible for nonpublic students to go to a public school to participate in the projects." Louisiana nonpublic school representative Charles Fortier ascertains that "many of the academic programs do not relate to the needs of the nonpublic school students," therefore they are not included as participants.

Communication and Interpretation

Communication between public and nonpublic administrators and accurate interpretation of the laws, regulations, requirements and purposes of federal programs are lacking in some areas of the country. This can result in flagrant violations of the law, as reported by one Midwestern superintendent to the Harvard researchers. "Each local district may use its own interpretation of involvement and identification of children," he said. "One area has zig-zagged the target area boundaries and left two Catholic schools on the fringes. Another has changed direction to preschool

and Follow Through and left our schools with existing programs rather than the expanded one. Two others have created centers and all of our children must be referred while their children are automatically included because of previous testing. Another district has gone into the training of aides who cannot go into our schools unless accompanied by the public school teacher. The aides must leave when she leaves."

Nonpublic school representative J. F. Gusinow of New Mexico cites as a major impediment to involvement "the lack of information from the state and local agencies (on funded projects) and the lack of information from federal agencies." And Michigan nonpublic school representative H. H. Zerfas charges that "administrators of LEA's allege that they do not know of the requirement to include nonpublic school students."

One Northeast nonpublic school administrator reported to the Harvard researchers that a "restrictive atmosphere" has been created at the local level due to local interpretation of federal guidelines.

Rev. Michael O'Neill describes how one project director "communicated" his project to the nonpublic schools in his area. The project director claimed there were 11,000 nonpublic school students participating in the Washington State project. Upon checking, Father O'Neill found there were no nonpublic students participating in the project nor had any nonpublic school in the area been notified of the project's existence. In answer to questioning, the project director stated that a notice had been placed in the public school district's bulletin a year and a half before--that constituted "involvement."

Al H. Senske, Secretary of Elementary and Secondary Schools for the Lutheran Church-Missouri Synod, told the House Subcommittee on Education of the complaints he had heard from Lutheran administrators. An Iowa administrator told him, for example, that "communication with local public school and federal officials is often slow and uncertain; the actual help is limited; the state-level directives have been extremely dictatorial; and no one from the public school sector seems to be interested in listening." And from California, Senske received the complaint that "public school superintendents, who have the responsibility and directives from state and federal agencies, are not seeking out opportunities to help children in nonpublic schools." As a result, the Lutheran school administrator told Senske, "unless the nonpublic school becomes a 'vociferous squeaky wheel' it is ignored."

Other Restrictions

When Father Laferty asked project directors who participated in his study why nonpublic school children were not involved in their projects, 37 percent said there were no nonpublic schools in their area; 20 percent said the project was designed only for public schools. Seventeen percent cited "no nonpublic school interest" as the reason for noninvolvement, while only 4 percent said they were restricted by state constitutions.

Other problems had to do with legal restrictions regarding the participation of nonpublic school children, including the inability of nonpublic school children to share in Title III projects during regular school hours, problems with leaving technical equipment on nonpublic school property, the lack of compensation for substitutes to allow nonpublic school personnel to attend personnel training workshops.

Senske passed on to the House Subcommittee a complaint from a Lutheran administrator who found equitable distribution very difficult, particularly in large cities. "The local school board can change the rules regarding eligibility too easily," the New York administrator told Senske.

Noninterest and Noncommitment of Nonpublic School Administrators

Noninterest and noncommitment sometimes lead to noninvolvement. Sister Joan Arnold, a nonpublic school representative on the New York Advisory Council, says she found that noninvolvement can sometimes be traced to lack of interest on the part of the nonpublic school people.

Father Staib of the North Carolina Council says he found when he was doing research for his study that the Catholic schools were experiencing a high turnover rate in principals. Many of the principals "had no experience in working with the public schools nor knowledge of federally funded programs," and some Title III project directors were either unsure or noncommital on the subject of nonpublic school participation. Father Staib gives two additional reasons for the rate of nonparticipation he found: (1) some of the private schools in the state were in noncompliance with Title VI of the Civil Rights Act of 1964 and (2) unlike some other Catholic school offices around the country, the Raleigh (N.C.) Diocese could not afford to hire a full-time person to help with federal programs after passage of ESEA in 1965 and to see that the nonpublic schools were equitably involved in the federal programs.

PROBLEMS AT THE STATE LEVEL

Inaccurate and Misleading Statistics

North Carolina's Father Staib noted in his dissertation some deficiencies in the operation of Title III at the state level. He cites instances where apparently inaccurate and misleading statistics in project proposal forms were not corrected by state officials. In addition, he says the State Department of Public Instruction did not require a written evaluation in proposals on the participation of nonpublic school students. And, although he filled the dual role of State Advisory Council member and Catholic school superintendent, he did not see projects (in which there was a possibility for nonpublic school involvement) until after they were funded.

The 'Posture' and 'Attitude' of the State Educational Agencies

One Midwestern nonpublic school administrator told the Harvard researchers that "the State Department claims it is constitutionally free to operate any and all programs.... The problem is to break the Department's administrative control because the state officer seeks out and works with his local public school counterpart and all we really get are smiles and handshakes."

Another nonpublic school administrator told the same researchers that "because of the posture of the State Department of Education on private education, there is no positive effort on the part of the LEA's to see that private education receives equitable treatment."

State Constitutional Restrictions

The nonpublic school representatives from only two states--Missouri and Oklahoma--mentioned state and national Constitutional issues as strong impediments to involvement. Gerard Poelker, Missouri's nonpublic school representative, cited "Missouri's traditional ignoring the existence of the private sector and its identification of the public school with the 'Protestant Ethic' even though this is in a dying stage."

Sister Virginia McMonagle of Washington State pinpointed "the deep-seated misunderstanding on the issue of church and state" as a strong impediment.

State Administrative Practices

The researchers who conducted the Harvard study in 1970 asked if the administrative arrangements under the state plan program approved for Title III in 1969 were better or worse with regard to the participation of nonpublic school children. Fifty-three percent of the respondents said the arrangement made no difference.

A nonpublic school administrator in the South gave the researchers a different view. He said "more Catholic school children were included in Title III when it was a federal/local program and the nonpublic schools were better informed on the programs. "Under the state plan program," he maintained, "two projects were no longer funded by Title III and we were denied continuance in one. It seems," he concluded, "that the state plan reduced the Title III programs available to Catholic school children."

From the nonpublic school representatives in two large states came the view that the nonpublic schools were not adequately involved partly because the State Department of Education was using some of its Title III funds to "push pet projects." What happened in one of the states was that the State Department of Education determined the statewide needs and local districts could apply for funds only if they could show similar needs. In this instance, said the state's nonpublic school representative, the local

districts were "much less inclined" to involve the nonpublic schools when this happened.

PROBLEMS AT THE NATIONAL LEVEL

Legislation: The Key to 'Equitable' Participation

Although local nonpublic school administrators attribute noninvolvement or minimal involvement mainly to problems at the local and state level, their spokesmen at the national level trace the sources of the problems to the unclearly defined legislative language and to the "neutral" stance of the U.S. Office of Education. "The nonpublic schools' only recourse has been federal action to ensure that the Congressional intent of the law is carried out at the state and local level," Edward D'Alessio of the U.S. Catholic Conference testified before Congressional subcommittees. "Our experience has taught us," he said, "that legislative language must be as free from misinterpretation as possible."

(Note: USCC's proposed changes in the legislation, as well as the language contained in the regulations released on March 12, 1975, are given later in this report.)

CHAPTER V

RECOMMENDATIONS FOR IMPROVEMENT

"When you get right down to it, the whole success or failure of participation in these programs depends on the attitude of the public and private school administrators." That opinion, as expressed by a USOE spokesman, is shared by some persons. Others contend, however, that there are many things that can be done at the federal and state levels to make sure that what Congress intends really occurs at the local level, where the funds are spent.

This chapter will focus on what is underway and what needs to be done to provide for the equitable participation of nonpublic school teachers and students in innovative programs funded under ESEA, Title III or Title IV.

Include the Nonpublic School in Planning and Evaluation

The recommendation that is cited most often on how to improve the participation and involvement of nonpublic school students and teachers is to ensure that the local nonpublic school is involved in the planning of innovative projects from the earliest stages.

This recommendation is made by nonpublic school administrators and representatives as well as USOE's Title III staff. U.S. Commissioner of Education Terrel Bell put it this way in a November 1974 Briefing Paper on Nonpublic Education: "The greatest opportunity for nonpublic school involvement is at the local level--at the planning stage, when the educational needs of nonpublic school children are identified, and in the evaluation of the effectiveness of the program."

Nonpublic school representatives on the State Advisory Councils agree with Bell but, in the words of Sister Faith Sitzmann of South Dakota: "More stringent requirements are needed" at the federal and state level to make this happen.

Edward D'Alessio of the U.S. Catholic Conference told the Senate Subcommittee on Education that nonpublic school administrators should be involved in "the total planning process" for innovative projects. He defined this process as including the following activities:

1. determination of target areas
2. identification of target population
3. participation in needs assessment
4. selection of eligible children
5. consultation in program design
6. involvement in program evaluation.

Allow the Nonpublic School to Initiate Project Ideas

Reverend Michael O'Neill, a member of the National Advisory Council on Title III, says involvement in planning from the earliest stages is fine, but there's a better solution. Writing in the January 25, 1975, issue of America, Father O'Neill, who is also superintendent for the Spokane, Washington, Diocese, suggests that private schools be allowed to initiate project ideas of their own and to submit them through the local public school district or intermediate school district. "All the requirements would be met: the legal applicant would be the public education agency, project personnel (some of whom would come from the private schools) would be public school employees for that project, all material and equipment would remain public school property and the project would operate in local public as well as private schools--presuming, of course, that the public schools wished to participate."

LEA's should set up a screening committee analogous to the State Advisory Council for the purposes of reviewing proposals initiated by teachers and administrators in private schools and other cultural and educational institutions in the community as well as by public schools, he suggests. "This screening committee could decide which project ideas were most worthy, assist in their further development and have the LEA submit them to the state as LEA project applications . . . . Even if the local public school officials opted not to have their children participate in the program, this should not prevent the project from being submitted and funded."

Another suggestion along this line is offered by Rev. Paul Curran, the nonpublic school representative on the Pennsylvania State Advisory Council. He says a good idea originating within the nonpublic school sector should not die for want of support form the local education agency. Therefore, he suggests that nonpublic school authorities should be able to design a program and have the state education agency assume responsibility for it, if the local education agency is not interested. He maintains, however, that the nonpublic school must keep the door open to participation by the public schools at some later date, if they desire.

Many nonpublic school administrators and representatives on State Advisory Councils recommend that the nonpublic school be allowed to offer a special component of a project when they cannot be involved in it exactly as it is written. Why is this necessary? As an example, Father Staib says one North Carolina project in reading was not suitable to the needs of the local Catholic school students, but it would have been suitable with some slight modifications.

Nonpublic school representatives on state councils suggest that the minigrant, a competitive program offering small grants to classroom teachers in both the public and nonpublic schools of some states, has proved to be an effective means of using Title III to spur innovative ideas in both school systems.

James Seculoff, the nonpublic school representative on the Indiana council, suggests that LEA's be established for the nonpublic schools.

What the States Can Do

The following recommendations for action by the state education agencies were made by the nonpublic school representatives on State Advisory Councils:

- The state should provide workshops for nonpublic school personnel to make them aware of their rights and duties.--Robert Wanstreet, West Virginia.

- The State Advisory Board that recommends projects for funding should check on involvement in planning by the nonpublic school community.--Sister Virginia McMonagle, Washington.

- The state should develop a systematic method of information dissemination.--Sister Laura Jean Remington, Oregon.

- The state should send a list of presently funded Title III programs to all private schools. It should also fund a full-time position for a nonpublic school representative in the State Department of Education.--J. F. Gusinow, New Mexico.

- The state should establish active, on-going local advisory councils, which include representation from the area's nonpublic schools. The present lack of such councils "means that the assessed needs of the nonpublic school children are not assessed when and if needs assessments are determined at the local level." --Thomas F. O'Brien, Nebraska.

- When Title III projects are initiated by the state education agency, nonpublic school representatives should be meaningfully involved in any initial planning.--Sister Joan Arnold, New York.

- The state should provide funds to appropriate private school chief administrators so they can inform local-level people on the regulations, the funding process and the projects themselves. --Thomas F. O'Brien, Nebraska.

Father Staib presents a number of recommendations in his study for the improvement of practices at the state level. He says first of all that the State Title III staff should systematically explain to LEA officials the need to involve nonpublic school pupils and teachers in planning. Advisory Councils should also be made aware of the need for nonpublic school participation through an annual briefing, "preferably when new members are appointed." Formal project proposals should include a signed letter from appropriate nonpublic school administrators ascertaining their

involvement in planning and operating the project. Once projects get under way, he adds, the state education agency should carefully check statistics on proposal forms regarding "enrollment" and "persons served by the project," and the state monitoring team should be required to do a "bodycheck" of nonpublic school participants or confer directly with the nonpublic school administrators.

Public and Nonpublic Schools Can Help Each Other

Another recommendation, aimed at "easing the burden for both public and nonpublic school administrators," is offered by Monsignor Pierre Dumaine, superintendent of the San Francisco archdiocese. He recommends that nonpublic schools be allowed to deal directly with the county intermediate district instead of the local education agency. In the San Francisco archdiocese, in which there are more than 131 Catholic schools, this would mean that Msgr. Dumaine could deal with four county intermediate districts instead of the 42 public school districts. Where there is a single private school in a public school district, Msgr. Dumaine recommends that the county intermediate unit could be the mediator and the broker, bringing together the public school and the nonpublic school with similar needs.

William Arensdorf, Title III consultant for the Nevada State Department of Education, suggests that working relationships and involvement would improve if local education agencies having nonpublic schools in their areas would appoint a coordinator or central administrator from among the nonpublic schools who would act as spokesman for the schools. This way, Arensdorf says, the local education agencies would have a contact person with whom they could work.

What Needs To Be Done at the National Level

Following are recommendations for improvement at the national level, as offered by nonpublic school representatives:

- USOE should strongly encourage the chief state school officer to consult with appropriate private school officials in the state before appointing a nonpublic school representative to the State Advisory Council. "Sometimes people in state offices think that if they appoint a professor from a private college to a committee, private elementary and secondary schools will thereby be represented adequately," Says Father O'Neill. "I'm afraid to say that nothing could be further from the truth."

- USOE should establish a "definite office that would take care of the nonpublic school participation, especially in planning and implementation."--James Seculoff, nonpublic school representative in Indiana.

- "The U.S. Office of Education must provide a 'sign-off' document for each innovative program, with the sanction being denial of funding."--Michigan's H. H. Zerfas.

- "A State Department of Education which fails to insure meaningful participation by private school people should be penalized," recommended several nonpublic school representatives.

The regulations governing innovative programs under Part C, Title IV, appeared in the Federal Register on March 12, 1975. They were open for comment for 30 days by the public and for 45 days by the Congress. They cannot be considered final until revisions are made, if called for, based on the comments; Congress approves the revisions; and the regulations are once again published in the Federal Register.

The regulations, as they appear in the March 12 Register, quote extensively the legal language on nonpublic school participation that is contained in the law (P.L. 93-380). Earlier drafts of the regulations had included more of the interpretation of the law that was worked out by USOE program staff and nonpublic school representatives. Insiders at USOE say, however, that the March 12 version of the regulations reflect the advice of HEW's General Counsel, i.e., to quote only the legal language in the references to nonpublic school participation.

Following are some of the recommendations that had been requested by nonpublic school representatives. These recommendations, they said, would have helped to avoid the same kind of "misinterpretation" of the Title IV regulations that had occurred under Title III:

- That the State Educational Agency should require local educational agencies, as a condition for approval of their application for funds, to demonstrate concrete evidence of consultation with "appropriate" private school officials. The LEA application should also specify the number of nonpublic school pupils and the manner in which they will participate in the proposed programs, recommended USCC's Richard Duffy and Edward D'Alessio.

- That funds to be allocated to the local educational agency for services, materials and equipment for nonpublic school children should be based on how many such children attend nonpublic elementary and secondary schools within the LEA's boundaries and not on how many children reside within the boundaries.

- That any technical assistance provided by the state educational agency for developing grants and proposals for Title III-type programs should insure that the requirements for nonpublic school participation are met.

- Although the local educational agency has complete discretion in appropriating funds under Title IV, its authority should be qualified by a statement requiring it to consult with the

appropriate nonpublic school officials. That statement, USCC's Duffy and D'Alessio contend, means that nonpublic school officials must be involved in the "total" planning of programs.

- That the regulations should clearly specify that the needs of nonpublic school children do not have to be similar to the needs of public school children and consequently, the services provided them.

- That state education agencies should establish procedures for the State Advisory Council's annual evaluation of Title IV programs. "Such evaluation procedures should stipulate that all projects funded should be evaluated as to their effectiveness in meeting the needs of children, their compliance with the provisions calling for nonpublic school participation, and the number of children served in both public and nonpublic schools."

- That the regulations should require separate persons to represent public and nonpublic elementary and secondary schools on the State Advisory Council, as indicated by the House Committee on Education and Labor. Further, the regulations "should specify that the SEA consult with representatives of the private school sector before appointing a representative of the private schools.... The Regulations should stress (the) community nature of the State Advisory Council and require that a majority of its membership be composed of non-state employees."

- That the SEA's be made legally responsible for providing for the "equitable participation of eligible nonpublic school children in Title IV programs" and insuring that "LEA's whose applications are approved actually provide services, materials and equipment for private school children as described in those applications."

- That SEA's may be liable for funds expended for a project in which there is a "substantial" failure in providing services for private school children.

- That a uniform reporting and evaluating procedure be initiated. It should clearly indicate the quantity and quality of nonpublic school participation in authorized programs.

- That the SEA be required to establish procedures whereby LEA's are prohibited from "concentrating" Title IV funds as to exclude or make it impossible to comply with the requirements of the law. "If program funds are concentrated in such a way, some other arrangement, such as direct provision of the services by the Commissioner, must be made."

- That the regulations should require states to establish procedures to insure public control and supervision of the services, equipment and materials provided for the benefit of nonpublic school

students and teachers "and that this be done in such a way as to allow for the provision of these services, equipment and materials on nonpublic school premises when this is the most effective way to serve the needs of nonpublic school children and teachers."

- That state provisions should allow, if necessary, for contracting for services, equipment and materials for the benefit of nonpublic school children and teachers with other appropriate public agencies. "The regulations should make it clear that nonpublic school employees may be hired by public agencies for the purpose of providing such services. Such employees would function under the control and supervision of the LEA."

- That the regulations should "explain the implications of the bypass provision and indicate a simple administrative procedure whereby this can be used when necessary."

- That the regulations should specify that the LEA must provide for the needs of nonpublic school children by a separate component under a Part C program (educational innovation and support) if the needs of nonpublic school children differ from the needs of public school children.

CHAPTER VI

WHAT THE LAW PROVIDES; THE NEW REGULATIONS

This report focuses on Title III of the Elementary and Secondary Education Act, the portion of ESEA intended to bolster innovation at the local level. Funds for innovation were never intended to be the private domain of the public school system. Instead, students and teachers from private, nonprofit institutions were to be involved as participants, along with the local public schools. The first Manual for Project Applicants spelled out the purposes of the program. It said Title III was designed to develop imaginative solutions to educational problems; to more effectively utilize research findings; and to create, design, and make intelligent use of supplementary centers and services. Innovation became the heart of the program in 1967; it remains so today.

In mid 1974, Congress passed the Education Amendments of 1974; they were signed into law by President Ford as P.L. 93-380 in August 1974. Under the legislation, Congress created a new Title IV, which consolidated seven former categorical programs into a single Title composed of two authorizations. Part B of Title IV--called Libraries and Learning Resources--consolidates the former Title II (library resources), Title III of the National Defense Education Act (instructional equipment and minor remodeling), and the guidance and counseling portion of Title III. Under Part C--called Educational Innovation and Support--four programs are consolidated: ESEA Title III (the innovative portion), ESEA Title V (strengthening state departments of education), Section 808 of ESEA Title VIII (dropout prevention), and Section 807 of ESEA Title VIII (nutrition and health programs).

The legislation specifies that funds appropriated to carry out the two Parts of Title IV are to be used only for the same purposes and for the funding of the same types of programs authorized under the previous legislation. Thus, although Title III will cease to exist as a separate categorical program, Congress has specified in the legislation that states should fund innovative projects at the local level with Part C appropriations.

Under ESEA Title II, nonpublic schools received school library resources, textbooks and other instructional materials. This thrust continues under Part B of Title IV. For the first time, however, nonpublic school children and teachers are to benefit from those portions of the legislation authorizing equipment, materials and minor remodeling.

Part C of the program is still competitive, although Congress has specified that the state educational agency is to pay particular attention and to help smaller, less able school districts to develop and to operate programs.

The program will be phased in, with 50% of the funds for all purposes included in the consolidation to be used for the purposes of the consolidation in fiscal 1976 and 50% to be used for the categorical purpose. In fiscal 1977, all funds authorized for spending must be used for the consolidations.

A State Advisory Council on Title IV is authorized, starting in fiscal 1976, and one of the stipulations for the council is that there is to be at least one council member who represents the state's nonpublic elementary and secondary schools.

Each state is required to submit an "annual program plan" which spells out how it will administer the Title IV program in the fiscal year. As part of the annual program plan, the chief state school officer must sign an assurance that the state will meet the legislative requirements on nonpublic school participation as spelled out in the law (mainly in Section 406) and further explained in the regulations on the program.

The most significant aspects of Part IV for the nonpublic schools concern the requirements that: the "appropriate" nonpublic school officials are to be consulted and involved in planning in all matters that relate to the participation of nonpublic school children in the Title IV program; the law details more clearly the complaint procedure and the remedy to be used by the U.S. Commissioner to provide for benefits to the nonpublic schools in case of noncompliance by the local education agency or the state education agency; and the law specifies that the state is not to fund any local education agency that does not follow the mandates of the law on nonpublic school participation.

Although the regulations do not specify that nonpublic schools are to be involved in needs assessment, per se, USOE suggests in its tentative guideline for administering the program (released in draft form in March 1974) that:

> "The state education agency, with the help of local education agencies should identify those private school leaders, organizations, and schools which are the best sources of data concerning private schools. Information on private schools is necessary because of the state education agency's responsibility for establishing funding criteria for the distribution of funds to local education agencies. Enrollment data is needed for both Part B and Part C purposes. It will be necessary as well to identify for purposes of Part B the numbers or percentages of children in private schools whose education imposes a higher than average cost...."
>
> "It is expected that state education agencies will develop state guidelines for local education agencies to use in working with private school officials.... The application (from the local education agency) must include information on the manner and extent to which

private school officials were consulted with respect to all matters, including planning, relating to the project."

The USOE tentative guidelines also say that the "state education agencies must assure that private school children receive the Title IV benefits to which they are entitled by taking action to provide information to local education agencies concerning the organizational structure of private schools in the state. Representatives of local education agencies and of private schools should be informed concerning the eligibility of and provisions for participation by private school children in Title IV programs and projects."

As this report went to press, the regulations which explain Title IV of the Education Amendments of 1974 were still in "tentative" form. They were published in the Federal Register on March 12, 1975, and were open to comment by the public for 30 days and by the Congress for 45 days. Any substantive changes in the regulations, as proposed in the comments, are subject to scrutiny of the Congress.

The final regulations are not expected to be published in the Federal Register until mid-May or later. Nevertheless, each state education agency has been requested to submit its "annual program plan" telling how it will administer the program to USOE by June 5. At a series of meetings held around the country in March, USOE officials reviewed the regulations and issued tentative materials to guide states in preparing annual program plans. They stressed to state officials that the law must be considered as the last word, while the regulations explaining the law and the tentative materials issued by USOE officials are, by necessity, subject to change.

Following is a summary of the regulations that pertain to nonpublic school participation, as contained in the March 12 Federal Register. Readers should keep in mind (1) that the regulations are subject to change upon the recommendation of the public or the Congress and (2) reference should be made to the law itself (P.L. 93-380) for specific wording as well as the exact and complete provisions of Title IV. (The specific portions of P.L. 93-380 relating to Title IV are reproduced in the Appendix.)

Assurance: Under the annual program plan, the chief state school officer must assure USOE that all the requirements of Sec. 406 of the legislation (relating to the participation of pupils and teachers in private elementary schools) will be met. He also must assure USOE that each application for assistance under Title IV submitted by an LEA shall (a) describe how the LEA will fulfill the requirements on nonpublic school participation and (b) contain information on the following:

1. the number of private school children in the school district of the LEA,
2. the number of private school children to be served by the project and the basis on which such children were selected,
3. the manner in which and the extent to which appropriate private school officials were and will be consulted,

4. the places at which and the times during which private school children will be served,
5. the differences, if any, in the kind and extent of services to be provided public and private school children and the reasons for such differences,
6. the adjustments which the local educational agency has made to assure that the average expenditure per child for private school children who receive benefits shall be "equal" to those for public school children. Sec. 134.93 of the regulations specify that the LEA shall adjust the average expenditure per private school child if the needs of private school children with respect to Title IV differ from the needs of public school children and if the actual cost per child to meet the needs is greater or less than the cost to meet the needs of public school children. In any case, the purpose of any adjustments should be "to assure equitable participation of private school children in Title IV."

If a state is prohibited by law or by its constitution from providing for the participation of nonpublic school children, the chief state school officer must include a certification to this effect, along with a written interpretation of the applicable law or Constitutional provision(s). The certification must be issued by the State Attorney General.

Note: Reg. 134.95 requires the local education agency to "consult" with the "appropriate private school officials" on all matters including planning, relating to the participation of nonpublic school children in Title IV programs "prior to making any determinations or decisions affecting such matters." As the regulation is written, it does not define "consult" or what "planning" entails, but it is important to realize that the regulation does apply to each and every aspect carried in the section, including: determining which nonpublic school children will benefit, what kinds of benefits, how the number of private school participants is determined by the LEA, how the provision will be met for "equal" expenditures, how private school children are included in programs that are concentrated on a particular group, attendance area, or grade or age level; the information on nonpublic school children and participation given by the LEA to the state education agency in its project proposal; how and what kinds of services will be provided by the state or the Commissioner if the LEA fails to comply with the provisions mandating nonpublic school participation.

Distribution of funds: In the annual program plan, the state must specify the criteria it will use to distribute funds under Parts B and C. Under Part B, funds are to be distributed among local educational agencies according to enrollments in public and private schools, "except that substantial funds must be provided to (1) LEA's whose tax effort for education is substantially greater than the state average, but whose per-pupil expenditure is no greater than the state average; (2) LEA's which have the "greatest numbers or percentages of children whose education imposes a higher-than-average cost per child."

Although Section 134.15 says the local education agency has complete discretion in how it will spend the Part B funds, that discretion is

"subject to Section 406" which calls for equitable participation by nonpublic school children and teachers. Section 406 requires that the local education agency must consult with the appropriate private school officials. If the services, materials or equipment are not feasible or necessary, as determined during the consultation, the local education agency still must provide "equitable" participation of private school children.

The needs of the nonpublic school children do not have to match the needs of the public school children. "If private school needs are different," USOE advised, "the local education agency must provide the requested materials, equipment or services to the nonpublic school in appropriate amounts." "Equal" benefits are of greater importance than "equal" expenditures and "in some cases, unequal expenditures may result in equal benefits," USOE says.

Under Part C, the criteria used by the state for the distribution of funds must be on an "equitable" basis while recognizing the competitive nature of grantsmaking. The criteria adopted by the state, says USOE, must take into consideration the participation of children enrolled in private schools. Smaller districts, "those less able to compete," are to be provided assistance by the state education agency so they may have a chance to compete for funds under Part C.

Note: No guidance is provided in the legislation itself, in the legislative history, or in the regulations as to how a local education agency which does not receive funds under Title IV is to provide benefits to nonpublic school children under Title IV.

Single Application: The LEA is required under Reg. 134.37 to make a single application for funds under Part B and Part C. This means that both parts must be sent to the state education agency at the same time. It does not require the state education agency to make the grants for Part B and Part C at the same time, however.

Benefits: The LEA, according to Reg. 134-90, is to provide for the benefit of private school children "secular, neutral and nonideological services, materials and equipment" authorized under Part B and Part C. This includes the repair, minor remodeling or construction of public school facilities as may be necessary for their provision. The control of funds under Title IV and the administration of and title to materials, equipment and property must remain with the public agency.

Contrary to past practices under Title III, materials do not have to be capable of being removed from the nonpublic school premises each night. Reg. 134.100 simply says "personal property acquired under Title IV shall not become a part of the permanent structure of any private school and must be capable of being installed and removed without requiring remodeling of the premises." This regulation is based partially on a ruling in the case of Lemon v. Kurtzman.

Reg. 134.99 describes who may legally provide services under the act. There are two options: services may be provided by employees of a public

agency or through contract by the agency with a person, an association, agency or corporation "who or which in the provision of such services" is independent of "such private school or of any religious organization."

No segregation: Reg. 134.101 states that public and nonpublic school children shall not be segregated in public facilities if that is where the project is carried out.

Membership on the State Advisory Council: Regulation 134.50 requires the State to appoint separate persons to represent public and nonpublic elementary and secondary schools on the State Advisory Council. The regulation also states that the State Advisory Council should, in addition to the minimum nine members, include such other persons as necessary to make the council "broadly representative of the cultural and educational resources of the state and of the public."

Note: Employees of the State education agency are not excluded from membership on the Council. USOE advised there "could be real problems" if the council were dominated by a person or persons from the SEA.

The duties and responsibilities of the State Advisory Council are given in Reg. 134.53, 134.55 and 134.56. Some of the duties are "advisory" in nature; others are considered as "operational" functions. The second category--the operational functions--are considered the most important by USOE. Two operational functions are emphasized: the annual evaluation of all Title IV programs and projects for children "enrolled in public and private schools" and the annual report to be submitted by the Council to the U.S. Commissioner of Education. At the time the regulations were issued (March 12), there was some puzzlement on what kind of evaluation Congress wanted and how the State Advisory Council was to do it. It "could be" the intent of Congress to get an independent evaluation of the programs, a USOE spokesman said but "there is really no reference in the Congressional hearings." Apparently, the states will have discretion in determining how the evaluation is to be done. A proposed guideline from USOE gives this advice: "The annual evaluation by the advisory council of programs and projects assisted under Title IV might be facilitated by coordinating it with the required state education agency administrative monitoring of the projects." The Advisory Council is also to evaluate how and how well the state education agency spends the funds allotted for Parts B and C. USOE suggests that the council evaluate, for example, the kinds of programs that are funded as well as the kinds of children and school districts included in the programs.

The annual report prepared by the Council is to cover its "activities, recommendations and evaluations" and must be submitted in its entirety to the Commissioner by the state education agency. It cannot be altered, although the state education agency may submit an objection or counter statement to accompany the report, USOE says.

The "advisory" functions of the council relate to the preparation of the annual program plan, policy matters concerning the administration

of the plan, the development of criteria for distribution of the funds and the approval of applications under Title IV. There is no specific requirement for the council to be involved in actually approving the applications for funding.

The complaint procedure. Sec. 134.102, provides that any organization or individual may file a written complaint on the operation of the Title IV program with the state education agency. The complaint, says the regulation, can relate to a program or project that is being conducted or is being approved by the state education agency. As far as nonpublic school participation is concerned, the complaint would deal with whether or not "eligible private school children" are receiving benefits "on an equitable basis." The state education agency must file a report with the U.S. Commissioner of Education within 60 days after receipt of the complaint. The agency must relate the nature of the complaint and the actions taken to resolve the matter. A copy of the letter must go to the individual or organization making the complaint. If the complaint is not settled to the satisfaction of the individual or organization, the Commissioner or the state education agency within the 60-day period, the Commissioner is required to "review the matter and take appropriate action."

If the state is prohibited by law from providing for private school children to participate in the Title IV programs, as required by the law, the Commissioner may waive the requirement. The state education agency shall not approve applications, however, until the Commissioner has done so. After the funds are granted, if the local education agency substantially fails to provide for the participation of nonpublic school children on an equitable basis, Reg. 134.105 says the state education agency may make arrangements for such participation "either directly or through contract." If the state education agency does not make satisfactory arrangement "within a reasonable period of time" (assumedly in consultation with the appropriate nonpublic school officials), or if the state is prohibited from serving nonpublic school children, the Commissioner is charged with arranging for the provision of services, according to Reg. 134.106.

When the state must make arrangements for services to benefit nonpublic school participants, the costs are paid out of the funds granted to the affected local education agency. When the Commissioner makes the arrangements for services, the cost is paid out of the "appropriate allotment of the state's Title IV funds." The payment is withheld from the state or local education agency until there is no longer any such failure to comply, the regulations say. Unlike the regulations on Title I, USOE advises, the Commissioner cannot waive the Title IV requirements for nonpublic school participation in districts where the state or local education agency has "substantially failed" to provide for such participation. This means that the local education agency would lose the Title IV funds that would be necessary for the Commissioner to provide services to the nonpublic school participants.

Reg. 134.109 says the final actions by the Commissioner are subject to the requirements set forth in the law, that is, that the Commissioner must give the state education agency and the local education agency "at least 60 days notice of his proposed action and an opportunity for a hearing. If the state or local education agency is dissatisfied with the outcome of the hearing, it may file an appeal with the circuit court, asking for review of the Commissioner's proposed action. The court has jurisdiction to affirm or set aside the action of the Commissioner, and the final decision may be subject to review by the Supreme Court.

CHAPTER VII

SOLUTIONS--WHAT SEEMS TO BE WORKING

The Sign-Off Procedure

In our survey of nonpublic school representatives, we asked what they saw as the strongest impetus to involvement in their particular state. Several cited the introduction of the "sign-off" procedure, which requires the appropriate administrator of the local nonpublic school(s) to "sign-off" on the project proposal before it is submitted to the state education agency for funding. In states where the procedure has been initiated, the appropriate nonpublic school administrator must sign off on a proposal even if the school's nonpublic school children are not eligible or the school itself does not wish to participate in the project.

An Active Person at the State Level

Many of the nonpublic school representatives cited the positive effect on involvement that resulted from their membership on and involvement in the State Advisory Council. Individual representatives reported that their "prodding" and "concern" was getting through to the state education agency, the other members of the council and to the local nonpublic school administrators.

Jerome Diffley, of the Florida State Advisory Council, reported the strongest impetus to involvement in his state was "a very vigilant person working with the Florida Catholic Conference, specifically in regard to federal programs and participation of nonpublic school children." The West Virginia nonpublic school representative, Robert H. Wanstreet, cited a state-level office with responsibility for assuring nonpublic school participation in federal programs.

Clearly, said North Carolina's Father Staib, "a 'bird-dog' is needed, almost full-time." He maintains that "letters, forms, phone calls, and state and federal paperwork do not get the task done."

The Bypass--The Weapon of Last Report

> "The quickest way to bring people around is to deny funds and that is what they should have done in Missouri. That is what I think should be done in the local schools where that difficulty arises as well."

These words summed up the sentiment of Representative Albert Quie in March 1973 upon hearing the testimony of several witnesses from the State

of Missouri--the scene of a long impasse between the state's top education officials and advocates of granting comparable benefits under Title I to nonpublic school children.

Title III was also a hot issue in the state, as described by the testimony of Louis DeFeo, general counsel for the Missouri Catholic Conference. He asserted before the Senate Subcommittee on Education in October 1973 that Title III programs in Missouri had been worse than Title I concerning participation by the state's nonpublic school children.

Consequently, a brief sketch of both the Title I and the Title III situation in Missouri is given below.

Title I in Missouri; the Berrera Case: The advocates of granting comparable benefits under Title I to Missouri's nonpublic school children told the House subcommittee that ESEA was both "obstructed and frustrated as to the benefits flowing to nonpublic school children for two reasons: (1) the state's commissioner of education and the board of education refused to provide equitable benefits, and (2) USOE failed to fully enforce the laws and the regulations governing the program.

In the early days of ESEA, the Missouri State Board of Education adopted a guideline that expressly prohibited nonpublic school children from participation in Title I due to what they alleged to be state constitutional limitations. Consequently, the State Department of Education would not allow personnel from the public schools to teach children from the nonpublic schools during regular school hours, either in public schools or in nonpublic schools.

In January 1970, however, Missouri's attorney general issued an official opinion that it was not a violation of the state constitution to provide Title I personnel on nonpublic school premises. Nevertheless, the commissioner and the state board stood firm. In April, a complaint was taken to USOE, which called for an investigation of the Title I program in Missouri. One and one-half years later, USOE concluded that it had found large discrepancies in the per-pupil expenditures for public and nonpublic school children under Title I. "While not an absolute criterion," USOE said in its report, "the comparison does provide an indication that private school children are not receiving a range and intensity of services which amount to genuine opportunity to participate" in Title I.

Two years after USOE concluded its investigation, the situation in Missouri was unresolved. Subsequently, those on the side of the nonpublic schools went to Washington to testify before the House and Senate subcommittees on education.

A suit was brought against Hubert Wheeler, the State Commissioner of Education, claiming basically that the state was not providing nonpublic school children with comparable services under Title I. The Federal District Court ruled that the state could constitutionally provide proportional dollar spending for the nonpublic school students, even though the

instruction was offered after hours and in summer programs. The Circuit Court of Appeals reversed the District Court's ruling, holding that courses offered after hours and during the summer were not comparable to those offered in public schools during regular hours. The case then went to the Supreme Court (Wheeler v. Barrera).

In an 8 - 0 decision, reached on June 10, 1974, the Supreme Court said it would not decide whether Title I "requires the assignment of publicly employed teachers to provide remedial instruction during regular school hours on the premises of private schools attended by Title I eligible students." The Supreme Court backed the ruling of the Appeals Court that the state had failed to comply with Title I's comparability requirement. The Court said further that neither it nor the Appeals Court should decide whether Missouri needed to provide public school teachers to instruct nonpublic school students on regular school time. If such provision were contrary to state law, the Supreme Court held, the state and the local educational agency could follow any of the following options: (1) they could approve a plan that did not require instruction for nonpublic school children on their school's premises, substituting instead any plan that complied with ESEA's comparability requirement; (2) they could change the entire program by eliminating instruction on the premises of the public school and could resort "to other means such as neutral sites or summer programs"' (3) they could choose not to participate in the Title I program.

While accepting USOE's definition of comparability, the Supreme Court also added some interpretation of its own. "'Comparable' does not mean 'identical,'" and "we do not read...the Act (ESEA) itself, as ever requiring that identical services be provided in nonpublic schools," the Court said. It added: "Congress recognized that the needs of educationally deprived children attending nonpublic schools might be different than those of similar children in public schools; it was also recognized that in some states certain programs for private and parochial schools would be legally impossible because of state constitutional restrictions, most notably in the church-state area. Title I was not intended to override these individualized state restrictions. Rather, there was a clear intention that the assistance programs be designed on local levels so as to accommodate the restrictions."

The Court noted that although nonpublic school children are entitled to comparable services under Title I, they are not entitled to any particular form of service. "It is the role of the state and local agencies, not of the federal courts, at least at this stage, to formulate a suitable plan."

Title III in Missouri: While the Title I imbroglio was resolved in the courts, the difficulties encountered in Title III projects in Missouri were resolved through a different mechaniam--the bypass.

Jerome Porath, Government Coordinator for the St. Louis Archdiocese, said in an interview for this report that nonpublic school representatives tried to work with the local school districts, the State Department of

Education and, "informally," with USOE in providing for the equitable participation of nonpublic school children in two Title III projects.

USOE advised that the problem should be worked out at the state level, but no accord could be reached. The nonpublic school representatives finally decided their efforts at both the state and local levels were fruitless and therefore requested the Commissioner to use the bypass.

"Formally requesting the bypass was the only way we could get the Commissioner to take action," says Porath. The State ignored one request by the Commissioner for information on the situation, and a second evoked a response that the state would provide bus transportation to nonpublic school children participating in the projects after school. No provision was made to provide services to nonpublic school children during regular hours.

Under the bypass, CEMREL, an education lab in St. Louis, was given a contract to provide services to the nonpublic school children. Services actually began in February 1973, almost a year after the bypass had been requested. During the following school year, CEMREL provided services to nonpublic school children in 15 Title III project areas because the state would not do so. Porath says the nonpublic schools have been well satisfied with the services provided by CEMREL. But, he adds, "the bypass is forcing us not to work against it, but at least not to work with, the public schools."

The State Board of Education still maintains that, under the Missouri constitution, public school teachers cannot go into private schools to provide instruction during the regular school day. On September 20, 1974, the Director of Title III in the State Department of Education, sent public school superintendents, principals and counselors a memo regarding the development of new Title III project proposals for fiscal 1976. The memo said in part: "Projects which propose to develop 'systems,' provide inservice training, revise or renew curriculum, or provide other services not requiring the use of Title III paid personnel to provide direct instructional or supportive services to school aged children during the school day, pose few problems . . . and such projects will be encouraged." "I'm not sure," Porath says, "that this is looking our for the best interest of kids in either public or nonpublic schools."

The Missouri situation is far from settled. Porath says the State Board of Education has begun proceedings in state courts to try to prove that federal money becomes state money and, thereby, is subject to the restrictions and limitations of the state constitution.

At the national level, all parties (the Congress, USOE, nonpublic school representatives) agree that the bypass is to be used as the weapon of last resort. Nevertheless, the fact that a bypass provision has been added to Title I legislation under the Education Amendments of 1974 and has been retained in the provisions for Title IV attests to its potential use, if absolutely necessary, in the future. Bypass is preferable, most parties agree, to a long drawn out court case such as Wheeler v. Berrera.

Bypass: The Wave of the Future?

The Commissioner not only does not want to invoke bypass at the drop of a complaint but, in practical terms, he will not do so. The procedure that will be followed when USOE gets a complaint will go like this, according to Dwight Crum: The person investigating the charge for the federal government will turn to the state as the first step. There, the appropriate person will be asked if the complaint is valid and what can be done about it, if it is. If the state program administrator says, for example, that the school children or school district are not eligible, that will be the end of the complaint. The same result is obtained if the state person says the local nonpublic school chose not to participate in the project or "signed off" on it. "We relate this information to the private school person making the complaint," says Crum.

If the complaint is followed up by other kinds of facts and information "which we didn't get from the state, then it's our responsibility to pursue it further," Crum states. Generally, he says, "we do this through a program technician, the people who are knowledgeable about the particular Title." They in turn communicate with the person at the state level who is responsible for the administration of the Title. If necessary, the federal and the state person for the particular program go on site. The process continues--hopefully, until the complaint is resolved satisfactorily and without the need to implement the bypass provision.

PROGRAMS, PRACTICES, STRATEGIES

Several State Title III coordinators and nonpublic school administrators said in interviews for this report it would be presumptuous to include a listing of "model" programs--that is, programs which are "exemplary" in their attempts or actual practice of involving the nonpublic schools in planning, implementing and evaluating Title III projects. They also said a listing of exemplary programs would present a distorted picture of what they consider to be "minimal" involvement.

Yet, there are programs where local or state Title III staff members have taken the initiative in involving the nonpublic schools. There are also many areas in which the public and the nonpublic schools have worked together amicably for many years. These cannot be slighted. There are additional strong reasons for including sample programs and particularly for indicating how relationships have been worked cut. In several instances, steps taken by local and State Title III staff members have resulted in clearer guidelines from USOE.

The following case studies and project descriptions were chosen because they indicate current trends and practices of state and local Title III administrators. Some of the projects were included at the suggestion of Title III staff in USOE, others due to suggestions from nonpublic school coordinators on state advisory councils. For example, descriptions are included of the steps taken by a state facilitator and by a developer-demonstrator, key roles in USOE's Dissemination/Diffusions Network. These

are the projects funded with discretionary funds granted to the Commissioner of Education. As such, these are the programs in which USOE has the most direct contact and control.

The Title III program in Philadelphia is described because the city is frequently cited as one in which the relationships between the public and nonpublic communities are about the best in the country. Yet, this is a change over the situation about four to five years ago. Additional descriptions are included of projects in Rhode Island and Louisiana and of one project in Cleveland, Ohio, which has cost very little but contributed much to the area's Lutheran Memorial School. Project I-C-E is included because staff members of this Wisconsin environmental project have always encouraged nonpublic school participation for two reasons: (1) they were following the state guidelines on Title III and (2) they believe all teachers should be teaching about the environment. The final project included in this chapter describes a Title III project which seems to be changing the structure of teaching in the state of Arizona. Teachers in both the public and the nonpublic schools that have been involved in this fledgling but well-received project are equally enthusiastic about the results in their schools.

How A State Facilitator Provides 'Equal Opportunity'

In Massachusetts, State Facilitator David Crandall is setting what may be a precedent in the area of involvement of nonpublic school children in federally funded projects. As a Title III State Facilitator, Crandall is responsible for making educators in the entire state aware of model, validated projects and for helping them to adopt the project that meets the needs of their schools.

In fulfilling their roles, State Facilitators usually inform the public schools in the state of their activities and then depend on the public schools to tell or involve the nonpublic schools. Crandall, however, has decided to follow the more direct route of informing the nonpublic schools by making contact with them individually instead of letting the burden rest with the public schools or with the nonpublic schools' diocesan offices or state associations.

Crandall's strategy is the following: He sends out "initial awareness packets" to the superintendents of public school districts and to building principals of nonpublic schools. This year's packet contained brief descriptions of 41 validated projects in areas as diverse as reading/language instruction, special education, administration, interdisciplinary programs and learning environments.

Crandall says if he had not sent the information directly to the nonpublic school principals, it would have been up to the public school administrator to seek out and find his local nonpublic school counterpart in

order to ask them if they were interested in a particular project. This method tends to limit the nonpublic school to the project chosen by the public school. Crandall ruled out contact through the nonpublic school agencies because the largest group--1,200 Catholic schools--were grouped under only four administrative agencies or diocesan offices. This would have meant that the word may or may not have filtered down in time for the nonpublic school at the local level to express an interest in adopting one of the validated programs. Crandall simply short-circuited the process by going directly to the building principals of the nonpublic schools.

USOE's Title III office is now telling state facilitators they may follow either the type of strategy used by Crandall or the more commonly used method of informing the public schools and then letting them bear the responsibility for informing and involving the nonpublic schools in their plans for participation.

Crandall says it's relatively easy to work with the nonpublic schools in his state because "we've been in existence for about five years and have worked with both the parochial and private schools in addition to the public schools." The earlier Title III project directed by Crandall, the Network of Innovative Schools, aimed at bringing together the public and nonpublic schools in order to improve education throughout the state.

In an interview, Crandall reported that the mailing of initial awareness packets to the 1,200 nonpublic school principals drew a response from approximately five percent of the schools, with additional requests for more information received by the project office somewhat later. Those who responded, from both the public and the nonpublic schools, received a detailed catalog on the 41 validated projects.

Crandall's Diffusion Assistance Project, its official name, works with all interested schools and districts in resolving as many of the potential problems as possible before schools are invited to send representatives to training sessions. Crandall says he always tries to get complete support for any project from the local administrators, the classroom teachers and the parents. He does this by involving representatives of each group in the planning and needs assessment of the community prior to the launching of the project. In this way, he adds, the interested groups come to a consensus about the school needs before the project gets under way.

The next step in the Massachusetts diffusion plan is to invite public and nonpublic schools that have expressed interest in adopting any of the validated practices to regional conferences around the state. Here, they are given further explanation of how the diffusion strategy works, that is, the steps involved in adopting an educational practice and getting it to the "success" level in their own school.

Crandall and his staff then set up "clusters" of schools interested in adopting the same practice in order that training and follow-through can be conducted in geographically close areas with maximum efficiency.

The staff also tries to work with clusters of schools in order to facilitate collaboration between schools. Adopting school districts are invited to send personnel to training sessions and they receive follow-up help as long as they need it from Crandall and his staff. Initially, a staff member meets once or twice a month with a "cluster" of schools involved in adopting specific projects, as well as on an individual basis.

As the State Facilitator, Crandall says he can help schools interested in adopting a project to defray at least part of the cost for expenses such as consultants and materials. The exact amount depends on the need of the school or district, with the maximum set at $1,500. The school or district must assume most of the cost of adopting the project. "What we are trying to do," says Crandall, "is to show the schools, public and nonpublic, that we can help them to develop a successful educational practice in their school for a fraction of the cost if they did it by another method."

"At this point," Crandall concludes, "we are not forcing equity in participation. It's handled by virtue of the fact that all schools--the public and the nonpublic schools--have an equal chance to incorporate successful educational practices."

For more information, contact David P. Crandall, Executive Director, Massachusetts Diffusion Assistance Project, Mechanics Street, Merimac, Mass. 01860 (617/367-8181).

Can Nonpublic Schools Be Involved in USOE's Model Programs?

Can nonpublic schools take advantage of the training offered by USOE's model programs--that is, those funded under Title III, Section 306, as developer-demonstrator projects? Yes, in fact they are encouraged to do so, as indicated by recently approved criteria (See pages 34 to 41).

In the past, just what the developer/demonstrators were supposed to do and what their responsibilities were to the nonpublic schools were unclear. In New York State, however, Frank Thompson, Director of the ECOS Training Institute, has served the needs of the 47 BOCES (intermediate units in New York State) plus the needs of nonpublic school staffs from as far away as Minneapolis/St. Paul and Omaha.

Thompson provides training in how to incorporate local and national environmental concerns into a school's total curriculum. A nonpublic school administrator in his home state was the first to have nonpublic school staff trained at the project site. She contacted USOE's Title III office asking how the school could be involved in Thompson's demonstration program. USOE referred her directly to Thompson. The first step he took after receiving the request was to inform all public school districts through the BOCES operation and nonpublic schools through their state organizations of the availability of training at the project site. The project

staff worked out a figure for equitable participation by both the public and the nonpublic schools, based on the number of children enrolled in the interested schools. Then, training began.

Thompson says he has had no problems in working out participation and the project is moving along smoothly. He advises other developer-demonstrators there are steps they can take to avoid any possible conflicts. "As a matter of good judgment in a potentially controversial area" he says, "developer demonstrators should first offer the program to the public school. If it declines, then go to the private school and let it participate alone." He follows his own advice by offering training to the interested public school, followed by training for the nonpublic school staff. If the nonpublic school initially requests the training, Thompson goes to the public school to find out whether or not it wants to be involved in the project. If the public school declines, Thompson offers training to the nonpublic school alone, as requested.

For more information, contact Francis J. Thompson, Director, ECOS Training Institute, 833 Fox Meadow Road, Heights, N.Y. 10598 (914/245-6919).

(Note: A complete listing of the current Developer-Demonstrators--model programs--and the Title III State Facilitators appears in the Appendix.)

Philadelphia Offers 'Exciting' Examples of Public/Nonpublic Projects

> "Philadelphia has the most exciting examples of public/nonpublic cooperation in the nation. Title III has significantly fostered that cooperation."

Reverend Paul F. Curran has made that statement as the nonpublic school representative on the Pennsylvania State Advisory Council on Title III. Other knowledgeable nonpublic school administrators back up his view by referring to Philadelphia when they want to illustrate that involvement of nonpublic schools in federally funded programs can work and that a cooperative effort between the public and nonpublic schools is possible.

Father Curran says 256,000 nonpublic school children were directly involved in Pennsylvania's Title III programs in 1973-74, along with 884,000 students from the public schools. In the city of Philadelphia, 54,000 public school pupils and 17,000 nonpublic school pupils participated in Title III programs. Yet, only four years earlier in Philadelphia, the picture was quite different. At that time, 1969, Msgr. Edward Hughes testified before Congress that "our degree of participation in Title I and Title III has hardly been 10 percent although 35 percent of Philadelphia students were enrolled in Catholic schools."

Why the change? Father Curran says the public and the nonpublic school systems in the city realized that it was "good public policy" to work

closely together, due to the sheer numbers of students who were enrolled in the nonpublic schools. In the past four to five years, the picture has changed considerably. "We just have to accept the fact that in our city or in any urban center, it takes a long time to work out the problems."

In the end, involvement comes down to commitment and cooperation, Father Curran states. "It amounts to the availability of an administrator at a reasonably high level--a superintendent, for example--who will give some time and push for nonpublic school involvement." Otherwise, he adds, the nonpublic school officials have no effective powers of initiating projects. Another source of particular difficulty is the "competitive" nature of Title III which is unlike Title I, where equity is much easier to get," he says.

Father Curran says the strongest impetus in the state for the involvement and participation of nonpublic school children was the introduction of the sign-off procedure. "Underlying this, however, has been the fact that ESEA has led to a continuing and dynamic relationship between public and nonpublic schools in the state." He added: "It is difficult for strangers to work together; ESEA has helped to make acquaintances and indeed friends among the total educational community."

Currently, the difficulties seen by Father Curran in his area are the "tailoring" of projects and the lack of nonpublic school involvement in planning. "Proposals are frequently tailored to a specific public school or school district and their needs. There are still times, also," he adds, "when nonpublic schools are drawn in at the last minute."

The cooperative spirit in Philadelphia between public and nonpublic schools exists, as Father Curran states, because it's a matter of "good public policy." The idea also received additional support under a Title III grant which helped the schools set up Joint Public-Parochial Planning Councils in the eight subdistricts of the city.

Under the Title III project, each Council brought together students, parents, teachers and administrators in a joint effort to plan, direct and work together on Title III activities. The secondary aims of the Council were to open the lines of communication between the parents of parochial and public school children and to allow students, parents and teachers "to gain an increased awareness and understanding of the cultural diversity of the various communities in Philadelphia."

During 1973-74, the thirty programs sponsored by the Joint Planning Council involved almost equal numbers of public and parochial schools. In five of the thirty programs, Father Curran reports that public and nonpublic students met for programs during regular school time. Most of the classes met once or twice a week for one to two hours. Activities ranged from academic programs in reading, science, Spanish and ethnic studies to the arts, trades, sports, cooking, music, drama, volleyball and community service.

During the third year of the Title III Joint Councils, a full-time citywide coordinator was named. Working with him were a parochial school

counterpart and other staff members at the Catholic archdiocesan office. The number of public schools taking part in Title III programs increased from 35 to 62 and the number of nonpublic schools went from 31 to 68. The number of students participating in the programs rose from 2,925 to 4,631. The most significant change, however, took place in the number of cooperative programs conducted during regular school hours. They increased from 5 to 20.

The Joint Public-Parochial Planning Councils have been strongly supported by both the School District of Philadelphia and the Archdiocesan School System. The budget officer in each of the eight subdistricts of the public school system spends from 2 to 5 percent of his time on the project, the district coordinator spends "10 to 50 percent of his time on the project, according to a booklet on the Joint Planning Councils entitled Building Bridges. In addition, teachers, principals and district superintendents are involved in the project during regular school hours.

Following are brief descriptions of some of Philadelphia's Title III programs that foster public/nonpublic school cooperation:

- Six schools, broken into three pairs of one public and one nonpublic school, are involved in an ethnic studies program called "Operation Understanding." Teachers, parents and volunteers teach the course to fourth and fifth graders. Four days a week, the public and nonpublic students meet in their respective schools, with a once-a-week meeting jointly, with the site alternating between the public and parochial school.

- Fifth to eighth grade pupils from two public and two nonpublic schools meet twice a week for a program in home economics, graphic arts, music, typing, metal shop and woodshop. In one and one-half hour sessions, student groups are taught by teams of public and parochial teachers in cycles of eight weeks duration. Fourteen teachers, 150 students and one paraprofessional are involved in the "Joint Shops Program."

- Forty elementary students of a public and nonpublic school meet daily after school to learn basic skills in physical education.

- Fifth to eighth graders in a public and a nonpublic school meet twice weekly at each other's schools in order to develop a chorus capable of community performances. Involved in the project are sixty pupils and four teachers.

- In a minicourse project, mixed groups from a public school, a nonpublic school and a technical/vocational school meet once weekly during regular school hours to participate in typing, photography, music, woodshop, beauty culture, sewing, baking, swimming, cross-age tutoring and television-assisted reading. Twelve teachers, fifty elementary students and seventy-five secondary students are participating in the program.

- Paired classes of public and nonpublic students in fourth through sixth grade are studying physical and life sciences in "hands-on" experiences with Elementary Science Study materials. Six hundred students, two paraprofessionals and eighteen teachers are involved.

- Two teachers and sixty-eight students from a public and a nonpublic school are participating in seven week courses to develop the ability of third graders to write and discuss stories in a joint language arts class.

- High school students from two public and two nonpublic schools are being trained in tutoring skills in the areas of reading and mathematics. In four sessions, over a period of fifteen weeks, all held at the public grade school, the students are being trained to tutor elementary students in public and parochial schools.

- Special education students from a public and a nonpublic school take part in a once-a-week, during-school-hours program to develop their physical, motor and social skills. Sports activities for the children include a track and field, softball, soccer and movement activities.

- Four hundred students and two teachers from two private and one public high school take part in a community service project. Students make weekly trips to a state mental hospital and an old-age home to visit the patients, serve dinner and to get involved in recreational activities.

These are but a few examples of the many activities involving both public and nonpublic schools in joint ventures. Others include many types of enrichment activities, training of parents and high school students as classroom aides and tutors, planning and discussion sessions by groups of teachers or students on specific topics, bicentennial activities, environmental and community awareness projects.

The handbook on the Joint Planning Councils, Building Bridges, is available from Charles Colgan, School District of Philadelphia, Administration Building, 21st Street South of the Parkway, Philadelphia, Pa. 19103 (Phone: 215/448-3441).

Rhode Island: Nonpublic Schools Initiate Grants

In Rhode Island, a part-time consultant for the nonpublic schools working in the State Department of Education seems to be having a positive influence in the amount of involvement of nonpublic school children in federally funded programs. The consultant is Sister M. Rosalia Flaherty, who has been in the job only a short period of time. "We are feeling her presence," say the state's Coordinator of Innovative and Handicapped Programs, Richard Harrington. One of Sister Rosalia's jobs is to review

applications for federal grants to ascertain whether the applicant has provided for the participation of nonpublic school children, if appropriate.

Additional support for nonpublic school involvement comes from Harrington himself. He says he is personally committed to serving the needs of all children, regardless of the kind of school they may be attending.

The state's nonpublic schools are encouraged to get involved in Title III projects, even to the point of initiating a project through the local education agency. Following federal regulations, the state requires the local education agency to apply for the grant and to administer it, which means that the superintendent of the local education agency must agree to the proposal by the nonpublic school and must sign the application. In these instances, of course, the state requires the nonpublic school to ask the public school if it wants to be a co-participant in the grant.

The two Rhode Island projects described below were chosen because they involve only students or teachers in a nonpublic school. The St. Xavier Academy project is requiring change on the part of all teachers in the Academy. This project is an example of a case where the nonpublic school has the flexibility to make changes that the public school cannot, Harrington said in an interview. As with any Title III project, the idea is to provide a testing ground for an idea that could prove to be workable not only in the pilot school, but one that could spread to other schools upon evidence of effectiveness.

Guidance and Individualized Instruction: A concept originally developed under a Title III minigrant is now receiving additional support under a Title III grant to the same school, St. Xavier Academy. The school, run by the Sisters of Mercy, serves 527 students from the Providence, Rhode Island, area.

The concept, Saturation Learning, allows for individualized instruction by saturating a student in one area of study for approximately nine weeks. In that amount of time, most students are able to complete a year's work. They receive credit when they have mastered the subject and immediately begin another course. Through the system, students are able to earn the 16 credits necessary for high school graduation before the end of the junior year. They may stay, however, as long as necessary to complete the required number of courses. All teachers in the system require retraining so they are able to teach in the manner required for Saturation Learning. The students not only receive individualized instruction via the Saturated Learning Approach but they are provided individual attention in a counseling program.

The backbone of the total program, says Sister Marie Andre, the Project Director, is the innovative use of teacher-counselors. This replaces the traditional homeroom system. Each teacher-counselor meets twice daily with a group of 15 or less students and with individual students as necessary. Students choose the teacher-counselor they prefer, so the groups are mixed by age and grade level.

Under the Title III grant, the project director must keep a continuous written account of the process and procedures used to plan and run

the program so that other schools interested in replication will be able to take advantage of what has been learned during the year. The school is open to visitors who want to take a firsthand look at "Saturation Learning" and to see the teacher-counselor program in operation. For more information, contact Sister Marie Andre, RSM, Project Director, St. Xavier Academy, 60 Broad Street, Providence, Rhode Island 02903 (401/421-2515).

Bringing Together Parents, Teachers, Students: The Cumberland (Rhode Island) School District says it will incorporate any "beneficial aspects" of Project GROW, a Title III project operating at a private school in its area, the Mercymount Day School. The Cumberland Schools' superintendent included this statement as part of the application to the state for funding of the nonpublic school project.

Under Project GROW, small groups of parents, teachers and students come together weekly to discuss how the educational process should be changed to better meet the needs of the students. In addition, the project is trying to fill the communication gap that exists among members of the groups. Two consultants, one in education and one in guidance, work with the groups.

The Day School's description of the project says representatives from the public schools were involved in planning the project and one of the public school staff also volunteered to help in the evaluation. The project will complete its first year of funding under Title III in June 1975. For more information, contact Sister Mary Pendergast, RSM, Project Director, 55 Tanner Street, Providence, Rhode Island (401/861-1377).

Louisiana Projects Show 'Early Involvement'

Program for Low Achievers in Mathematics (PLAM): A Title III project in Lafayette Parish, Lafayette, La., aims at developing a positive attitude toward mathematics, specifically, and school, generally, among low achievers in the public and nonpublic schools of four parishes (counties).

Dale Frederick, Director of PLAM, says personnel from the nonpublic schools were involved in the project "as early as the planning stages." Frederick reports that 3,066 public school students and 217 nonpublic school students were involved in the project during fiscal 1974, the year in which it was validated as an "exemplary" project suitable for adoption by other school districts.

The project provides intensive inservice training to teachers. During fiscal 1974, five nonpublic school teachers and 35 public school teachers participated in the training.

The mathematics teacher in each parish was responsible for visiting the nonpublic schools and providing them with materials such as mathematics booklets developed especially for the low achiever. The supervisor of the diocese and the principals of the schools serve as liaison persons in the project. For more information, contact Dale Frederick, Project Director, Lafayette Parish School Board, PO Drawer 2158, Lafayette, La. 70501 (318/232-2620).

Individualized Reading Instruction for Students (IRIS): IRIS is in its third year as a Title III project operating in Rapides Parish, Alexandria, La. Its purpose is to provide personalized reading instruction in which a student competes with himself in reading achievement rather than with other students. Walter B. Gatlin, Project Director, reports the involvement of 543 students in grades 1-12 and 32 teachers from the public schools as well as 210 students and 13 teachers from the nonpublic schools.

Gatlin says nonpublic school participation was initiated in the early planning phase of the project by Travis Funderburk, Assistant Superintendent of Instruction for the Rapides Parish (public) Schools. Included in the planning were the superintendent of the diocesan schools, the principal of the nonpublic elementary school and the guidance counselor for the nonpublic secondary school.

All services of the project, Gatlin says, are equally provided to the public and nonpublic participants. The services include: inservice training for all teachers and aides; materials and equipment to all schools on the basis of school needs in relation to the project; computer services to all schools; supervision of the project in all schools by the Title III staff; and testing services to all students.

Every six weeks, each nonpublic and public school is provided computer printouts which track student progress, the effectiveness of materials used and other data gathered by the project. Services provided to the nonpublic schools participants are offered within the nonpublic schools "as an ongoing process of the instructional program," Gatlin states. He concludes that public and nonpublic participants are succeeding equally well in the project. For more information, contact Walter B. Gatlin, Project Director, Rapides Parish School Board, PO Box 1230, Alexandria, La. 71301 (318/442-1301).

Volunteers for the Public and Lutheran Schools

Project Utilize, Cleveland, Ohio, did what the local Lutheran Memorial School had wanted to do for a long way. It provided funds for the training of volunteers and for the teachers who would be working with the volunteers. The Lutheran Memorial School is an interparish school operated by Christ, St. Luke and Trinity Lutheran Churches on Cleveland's west side. Enrolled are approximately 200 pupils from age 4 through the eighth grade.

The Cleveland Public Schools invited the nonpublic schools to participate in the Title III project and included on the advisory committee teachers, principals and supervisors from both the public and nonpublic schools.

Under the projects, administrators and teachers attended seminars on the use of volunteers in the classroom, and the volunteers were trained in several sessions.

Following is the description of what the volunteers contributed to the classrooms, as contained in the "Innovations Notebook" published by the Lutheran Church-Missouri Synod:

"The volunteers were asked to come to the school once a week. Each volunteer worked individually with three students for one-half hour each. The session was designed to make learning fun. The pupils selected needed help in either reading or math. The child was given a ten item pretest on a specific skill on which he was not able to achieve more than 20 percent accuracy. After working with the volunteer, the same test was administered. When the child mastered 80 percent accuracy on the test he moved to a new skill. The process then was repeated."

The Notebook reports that most of the teachers who utilized the services of a volunteer this year have requested a volunteer for next year. Additional teachers have requested help. And, "the present volunteers have promised to return in the fall."

Environmental Instruction for all of Wisconsin

Project I-C-E, under the enthusiastic leadership of Project Director Robert Warpinski, reports that it has encouraged all teachers to incorporate environmental concerns as an integral part of instruction for all grades and subject areas. In operation since 1969, I-C-E (Instruction-Curriculum-Environment) has a whole region to draw on—which means a potential audience of 53 public school districts and 122 nonpublic schools.

I-C-E materials and services include environmental education guides for all K-12 subjects, an environmental resource materials centers, consultant and special program services for schools and community groups, training and outdoor workshops for teachers and a monthly newsletter.

Warpinski, in describing nonpublic school participation in the project, quotes the Wisconsin Guidelines for Title III. They specifically state that funded projects must show evidence of nonpublic school "participation, observation, visitation, and/or dissemination of information." Consequently, he says, Reverend Richard Kleiber, then the Green Bay Diocesan Superintendent of Schools, was a member of the initial task force in 1968.

As planning progressed, Reverend Mark Schommer, Diocesan Director of Instruction, became a member of a four-person planning team to carry out the needs assessment and to write the first proposal. During 1969-70, as districts surveyed their local needs, the project directed that four of the representatives on each 21 person committee were to be from the nonpublic school sector. In the final aspects of the needs assessments, 13 nonpublic school principals joined the 53 district administrators. In each case, the number of nonpublic school representatives involved in various aspects of planning was based on the proportion of nonpublic school students (20 percent) in the State of Wisconsin.

The advisory board for the project is drawn from the three regional service agencies in the area. Each agency has four representatives, including the coordinator, two public school representatives and one nonpublic school representative.

The major activity of the project--the development of the environmental education curriculum guides--involved 36 teachers from the nonpublic schools (mostly Catholic and Lutheran) and 199 from the public schools. Every school and district in the project area received an appropriate (grade level/subject area) master set of the environmental guides, Warpinski says. This means that 122 such sets were sent to the nonpublic schools with individual requests from teachers honored on a complimentary basis.

The nonpublic schools also were involved in pilot testing the environmental program and in the inservice training. Three of the 13 area schools that serves in the pilot effort were nonpublic schools (two Catholic, one Lutheran). "General inservice to introduce the environmental education program and project services to area teachers included numerous nonpublic schools," Warpinski says.

The Green Bay Catholic School Diocese helped in the dissemination of the project by making available free booth space at the Catholic schools' annual teachers conference.

In addition to free distribution of the 39 environmental guides to local teachers, the services of the Resource Center and the distribution of the project's newsletter, all project staff members, including the environmental education specialist, are available to all area schools. "There has been no distinction between the public and the nonpublic schools in all these service functions," Warpinski notes. They include special programs, inservice, workshops, individual or small group planning and, in some cases, specialized activities such as assisting with field trips and camping programs.

When asked when and where project services were made available to nonpublic school participants, the project director replied "any time and any place." "Being a broad regional project covering all or parts of thirteen counties, the concept of serving nonpublic schools on public premises is generally impractical." Instead, he says, specific needs and circumstances dictate the time and the place of the programs and services. Although many groups of nonpublic school staffs have traveled to the Resource Center for inservice programs, others have been conducted at nonpublic school facilities when travel was a problem. Public facilities, such as a county arena have been used, as have the county park when a field trip was planned. "Timewise, school hours, after school, evenings and weekends have all been used for service functions," the project director reports.

Warpinski maintains that the project has been equally successful with both the public and the nonpublic sectors "because environmental education is nonsectarian." If anything is different about the two sectors, he adds, it's the fact that the "nonpublic schools, because of pure economics, generally demonstrate a greater eagerness and enthusiasm when services and materials are available at very low cost or without any charges. Similarly, they are more given to expressions of gratitude for Title III services and that it does not discriminate against them."

For more information, contact Robert Warpinski, Project Director, Project I-C-E, Cooperative Educational Services Agency No. 9, 1927 Main Street, Green Bay, Wisconsin 54301 (414/468-7464).

Inservice Training Plus Administrative Commitment

In Arizona, a Title III project called ACIL (Arizona Consortium for Individualized Learning) is attempting to change instructional methods and classroom attitude in the state's public and nonpublic schools. ACIL, which was adapted from a Utah validated Title III project known as U-Sail, is teaching teachers how to manage their classrooms, to group students for maximum learning, to be flexible in the use of time and materials and to allow all students "to experience the benefits and the joy of learning on their own in a learning center." (For a more complete description, see the article on ACIL in the Summer 1974 issue of the Title III Quarterly, published by the National Advisory Council on Supplementary Centers and Services.)

Although ACIL first started in mid-1973, the immediate demand was so great that the project could not keep up with all the requests for in-service training from public school districts. In the first year, districts enrolling approximately 9,000 students became involved in the project. At that time, one nonpublic school in the Phoenix Diocese participated in the program. The superintendent of the Diocese was a nonvoting member of the ACIL Executive Board.

During the second year of the project, nonpublic school participation was expanded to the Tucson Diocese with two schools involved. Forty-five teachers in the schools, with 1,350 students, were involved in ACIL. By comparison, 815 teachers and 24,450 students in the public schools were involved in the project during the second year.

ACIL provides the same types of services to participants from both public and nonpublic schools, i.e., inservice training for teachers, supplementary curriculum materials, followup services to insure that the program is properly implemented at the classroom level.

Because of the nature of the program, there is lots of interaction and monitoring activities carried out by the project staff. An ACIL "Implementor" works in each school to help the principal and the teachers get the program going. The Implementors send regular weekly and monthly reports to Project Director L. Leon Webb, who also visits all of the schools to make on-site evaluations.

Inservice training has been provided in both public and nonpublic facilities on an alternating basis. Because of the greater amount of participation by the public schools, however, more of the training sessions have taken place in public school facilities.

Webb says the project has experienced "outstanding" success with both public and nonpublic school teachers because they "have been very

accepting of the process that ACIL represents." Another reason for ACIL's success, Webb says, is the project's practice of involving the superintendent and the principal. The superintendent of the participating district, whether public or nonpublic, is automatically a member of the ACIL Executive Board. "Since these superintendents make the policy for the ACIL program, they are actively involved in promoting the program and have taken a very sincere interest in seeing the program implemented properly." Principals of all participating schools receive a separate inservice training program.

For more information on ACIL, contact L. Leon Webb, Project Director, Arizona Consortium for Individualized Learning, 4643 E. Thomas Rd., Phoenix, Arizona, 85018 (602/959-6710).

CHAPTER VIII

A PROFILE: TITLE III IN CALIFORNIA

California ranks number five in the National Catholic Educational Association's line-up of states containing the largest number of students enrolled in Catholic schools. NCEA reports that 263,400 of California's student population were attending Catholic schools in 1973-74. An additional 148,425 students were enrolled in other church related and private schools, for a total nonpublic school enrollment of 411,835. This means the nonpublic school enrollment is approximately 10 percent of the state's total enrollment--a staggering 4.5 million students.

How Do Nonpublic Schools Fare in Title III?

Due to the size of its student population, California is one of the main benefactors of ESEA Title III. In early February 1975, for example, the State Title III office was responsible for over 150 projects, funded at $10.6 million.

An unofficial report from California on the participation of nonpublic school children in federally funded programs indicated that 4,313 such children participated directly in Title III programs in 1972-73, with another 5,464 listed as "indirect participants." The report also noted that 219 nonpublic school teachers were involved as direct participants and 394 as indirect participants. In addition, 28,924 students from 258 nonpublic schools were tested at a cost of $28,922.60, with funds provided under the Guidance and Testing portion of Title III, according to the state report.

More recently, in September 1974, the State Title III office conducted another survey which asked the Title III project directors to report not only the number of nonpublic school participants but also to report additional details on that involvement. (A copy of the questionnaire is contained in the Appendix to this report.)

Among the findings of the survey were the following:

Question: Within the attendance boundaries of your project school(s), are there any nonpublic schools?

Reply: Yes--120; No--28

Question: How many (nonpublic) students are directly involved?

Reply: 12,555 students. (Note: Individual projects reported that from 3 to 4,500 nonpublic school students were involved directly in the project.)

Question: How many (nonpublic) students are indirectly involved?

Reply: 6,233 students. (Note: Individual projects reported that from 4 to 600 students were involved indirectly in the project.)

Question: Are nonpublic school teachers involved in pre- or in-service training?

Reply: Yes--66; No--55. (Note: Projects that answered Yes to this question reported that 483 nonpublic school teachers were involved or would be involved in training.)

Question: Do nonpublic schools use project materials or equipment?

Reply: 60 projects reported that nonpublic schools use project materials; 30 projects reported that nonpublic schools use project equipment.

Catholic Conference First Nudges, Then Pushes

The California Catholic Conference, under the leadership of the Director of the Division of Education, Joseph P. McElligott, has been the major advocate in attempts to attain more benefits under Title III for the state's nonpublic school students and teachers.

"Let's just say we've got nowhere to go but up," said McElligott in an interview in his Sacramento office. McElligott, who acts as both liaison and trouble-shooter for the state's Catholic schools in their dealings with the State Department of Education, said simply "the involvement of our schools has been insufficient."

For a long time, McElligott said, "Title III was a nebulous kind of thing to us. We were much more concerned about Title I of ESEA." As we looked into Title III, we found there were two main problems for nonpublic schools at the local level: lack of involvement or late involvement. McElligott said he tried to little avail to get the state's Title III office to change its administrative and monitoring policies, and then he brought the matter before the Federal Aid Committee of the State Board of Education. At the meeting of the Committee, McElligott reported on four specific projects that he had investigated, only to find no involvement or token involvement of the nonpublic schools in planning the project. Nevertheless, each was being recommended to the Board for funding. (Each of the applications did contain a sign-off statement from a local nonpublic school administrator, said the chairman of the Advisory Council.)

"Actually, I could have cited 50 of the second and third year projects in which I found a similar situation," McElligott said. The main result of McElligott's appearance has been that the State Title III office is taking steps to make its own staff as well as the local education agencies and county offices (legal applicants for Title III projects) more aware of the legal mandates on the involvement and participation of nonpublic school students and teachers.

For the first time ever--in September 1974--the state Title III office notified the state's nonpublic schools of the intent of and purposes of Title III and advised them to contact the local public school in their area to find out if it planned to submit a project proposal. McElligott maintains that this is one of the implicit functions of the state Title III office. "We still tell our people in workshops, however, that it is their duty to be alert to what is going on concerning the federally funded projects in which their students and teachers might be able to benefit."

On a more positive note, McElligott says he thinks the involvement of nonpublic schools could help the public schools to make proposed projects more viable and more competitive. "The nature and flexibility of the nonpublic schools allow them to do more things than many public schools." As an example, he cited a nonpublic school that shares its site with a hospital or other social agency--a "great site" for a career education or other similar project.

"We could offer great opportunities to set up demonstration bilingual education programs here in the state," he noted. "We have a significant number of teaching orders of sisters who come from Mexico. We also have Philippino and Chinese sisters and others who, in their training in other countries, were required to learn the fundamentals and the teaching skills in instructing students in two languages.

"Incidentally, we have at least 2 percent more minority group students in this state than the public schools, due to the age of our schools and their location, which is usually in the older, poorer areas. I know of one school," he said, "where 90 percent of the students are black and 65 percent of them are non-Catholic."

As another example of potential liaison, McElligott mentioned the practice in some dioceses of building elementary and secondary schools on the same tract. "This is an ideal situation for a cross-age tutoring project."

New Directions

The survey on participation conducted by the state Title III office was one of the results of meetings of state Title III officials, the state's nonpublic school consultant, Newton Chase, and representatives of nonpublic schools, including McElligott.

Other new directions were reviewed by Robert D. Welty, Assistant Program Administrator for Title III in the California Department of Education. In an interview for this report, Welty emphasized the state's positive forward direction in getting nonpublic school students involved in Title III. In the past, he said, "our directives (on the nonpublic schools) were not very clear" and the assurances were not taken very seriously.

In 1973, Welty said, the first step was taken to make the projects more aware of the requirements on nonpublic school participation. At that

time, the state Title III office inserted a new form in the application for projects (see Appendix). It required the project applicant to include participation data and required further that the school personnel "in authority" at nearby nonpublic schools sign off on the application. The form specified that the personnel "in authority" was to be "equivalent to a superintendent, consultant or principal."

The new application form also required:

- That the statement on nonpublic school involvement be returned with the application, even if no nonpublic school students were to be involved in the project.

- That the applicant involve eligible nonpublic school personnel in the planning for the application. "Involvement ideally should begin in October or November."

- That the original copy of the application bear "original signatures."

Another new practice in the state, which went into effect in the 1974-75 school year, is a review of the nonpublic school participation by the monitoring team during its annual on-site visitation to all projects. Team members are instructed that they must talk with the appropriate person from the local nonpublic school(s) to ascertain the amount and type of involvement. The on-site visitations are conducted by seven team members over a three-month period, January to March. A project that is in noncompliance with any regulations or requirements, including any aspect of the requirement on nonpublic school participation, is notifed by April 1 what it must do to get back into the good graces of the Title III office.

What recourse does the state have if a district does not comply with the regulations or requirements? Welty says the most powerful recourse is the threat of nonapproval for continuation money. This step would not be taken until July 1, when the new fiscal year starts. As in other states, California rarely terminates a Title III project in mid-year--for any reason.

The procedure described above applies to the new, or "first-year" projects only. For those already in operation, a different procedure on nonpublic school participation is to be used. Beginning with fiscal 1976, the second- and third-year projects will be required to comply with the mandates on nonpublic school participation, if they are not already doing so. This could mean they will have to start providing benefits for any eligible nonpublic school students and teachers. If they refuse to come into compliance, Welty says, they will not receive continuation funds.

In another move, the State Title III office sent to 2,400 nonpublic school administrative personnel a letter containing general information on Title III and an announcement of the deadline for new project applications. This is the first time such a letter has been sent and, Welty

points out, it may be the first time that any of California's administrative offices for federally funded programs has taken such a step. In the letter, dated September 15, 1974, J. R. Schaeffer, Title III's Program Administrator, says:

> "Public school districts and county offices of education are legal applicants for funds under Title III. The law does require that nonpublic school children in the area to be served must have educational needs of the type which the project is designed to meet, and these children shall be offered effective participation on an equitable basis in Title III programs. Also, the staffs of nonpublic schools can participate in training sessions and secure project materials....
>
> "Nonpublic school personnel are encouraged to contact the public school district in which their school is located and determine if any ESEA Title III projects will be submitted. Also, most nonpublic schools are within the attendance area of an individual public elementary or secondary school and, therefore, staff are encouraged to contact the principal to determine if the local public school is submitting an application...."

The letter also advised the nonpublic schools to contact their administrative offices in January (1975) to secure the names of public school districts that would be submitting continuation applications in April. The administrative offices, which were listed in the letter, were given a set of the project writing guidelines for Title III projects to share with interested nonpublic schools.

CHAPTER IX

WHAT'S NEW AT THE FEDERAL AND STATE LEVEL?

"The Office of Education has been so totally insensitive and inactive on this problem (nonpublic school participation in federally funded projects) that I cannot imagine any significant change." This conclusion was drawn by one nonpublic school administrator in his comments for this report.

Nevertheless, there are some new initiatives at the federal level. For the first time, for example, representatives of nonpublic school organizations participated as "306 project readers." The three representatives, Robert Lamborn of CAPE, Rev. Frank Bredeweg of the National Catholic Educational Association, and Richard E. Duffy of the U.S. Catholic Conference, reviewed incoming project applications from throughout the country for funding under Section 306, the Commissioner's discretionary portion of Title III funds.

The three reviewers read 100 grant applications, evaluating them on the basis of nonpublic school participation. They concurred: "The large majority of applications reviewed made no reference to the involvement of nonpublic school officials in the planning nor to the participation of nonpublic school pupils." They added that most applicants overlooked or disregarded a portion of the application asking for a description of the nonpublic school participation. The reviewers suggested that changes be made in the application form itself and that the changes make clear to the applicant "that inclusion of the nonpublic sector could be a pivotal matter."

Developer/Demonstrator and State Facilitator Projects

In February 1975, USOE started to emphasize nonpublic school involvement in two types of projects funded under Section 306 of Title III--those known as developer/demonstrator and state facilitator projects. Both types of projects aim at making known and helping to disseminate exemplary projects. A Feb. 13, 1975, memorandum from Lee Wickline, Director of the Division of Supplementary Centers and Services, detailed the new guidelines on nonpublic school participation which will be used in funding the last round of 306 projects, starting in July 1975. Under the newly approved procedures, both the developer/demonstrators and the state facilitators are to take "aggressive steps to inform nonpublic schools of their capabilities and services." USOE lists two alternative strategies that may be followed by the developer/demonstrator (DD) and the state facilitator (SF). Under the first alternative, these are the procedures to be followed:

1. Either the LEA or the nonpublic school may initiate action to secure the services of an SF or a DD.

2. Whichever takes the initiative should approach the other at the local level to determine whether they share a common interest in the diffusion effort and in a particular program area. If this is the case, they should proceed together to avail themselves of the SF and/or DD services.

3. If only one, either LEA or nonpublic school, is interested in the diffusion effort, the interested party must secure a letter from the highest ranking official of the noninterested party documenting that contact has been made but that the LEA or nonpublic school does not wish to participate. The interested party may then seek the services of the SF or DD independently.

4. If both LEA and nonpublic schools are interested in the diffusion effort but in different examplary programs, they are encouraged to work cooperatively in securing SF services as far as is practicable.

5. When an LEA or nonpublic school in a local setting is the only program adopter or when each is adopting a different program, observation opportunities should be afforded all parties.

A possible acceptable alternative to this procedure, says USOE, takes into account a specific SF diffusion strategy. In this case, the SF implements a comprehensive awareness strategy with all eligible public and nonpublic schools in the state or section of a state which constitutes the SF's target area. Through responding or not responding at various points in the process, public and nonpublic schools independently select themselves in or out of the diffusion effort. Ultimately services are provided to LEA's and nonpublic schools wishing to participate as nearly as possible in proportion to the relative number of school children enrolled in each category within the state or smaller target area of the SF. This approach is an acceptable alternative only when the SF has made the same initial effort to inform both public and nonpublic school and is employing a self-selection strategy.

Note: See the description of the State Facilitator project in Massachusetts on pages 47-49.

The state facilitators and developer/demonstrators will be required to maintain separate statistics for participants from the public and nonpublic schools. They will have to show in their criteria how opportunities for participation will be provided for nonpublic schools and if an advisory council is called for, they must provide for nonpublic school representatives on the council, Wickline said.

No Validation without Nonpublic School Participation

Starting with the projects to be validated by state teams in 1975, Title III projects will have a new criteria to meet for validation. They

must be able to prove that they have followed the law in its mandates for the participation of nonpublic schools and the involvement of nonpublic school children or teachers.

Commissioner Bell: 'Aware of Stronger Mandate'

U.S. Commissioner of Education Terrel H. Bell, on the job only since June of 1974, says he will use the power of his office to follow the letter and the spirit of education laws. For the nonpublic schools, this may be a portentous sign of better times.

"I want the private or nonpublic school community to know that I am well aware of the stronger mandate for nonpublic school participation in the various education programs," Bell said in a message especially prepared for Outlook, the monthly newsletter of the Council for American Public Education (CAPE). "I want you to know," Bell continued, "that we will carry out the spirit of the act in providing benefits to the children in both our public and nonpublic schools."

USOE staff members who man the regional offices were also told in a memo dated August 1974 to start learning the statuatory provision of the Education Amendments of 1974. In the memo, Bell told the commissioners to "emphasize to your program managers that they have a responsibility to study and to know the legislative history of their programs regarding nonpublic school participation. We need to get the problems of the past behind us," the Commissioner said. "We need to be helpful also in the new parts of the law where it is apparent that both public and nonpublic school students should be involved."

The Commissioner is the person finally responsible for investigating any alleged violations of the legal provisions mandating the involvement of nonpublic school children. In addition, he is the designated official who must implement the bypass provision, if necessary. Although his objective is to work out as many of the problems as possible without resorting to bypass, he has stated that use of the bypass in the Case of Missouri "was important" and "was the right thing to do."

In one recent incident, Bell's quick action has already been noted. The incident came about when Lyman V. Ginger, Kentucky Superintendent of Public Instruction, applied a ruling by the State Attorney General to the effect that any services provided by public school teachers on private school premises under Title I would be unconstitutional. At this point, the action by Ginger came to the attention of Kentucky Congressman Carl D. Perkins, who is also chairman of the House Committee on Education and Labor.

Perkins promptly wrote to Bell, urging him to "act quickly" in order to assure that Title I services would be available to educationally deprived school children in parochial and private schools in Kentucky. In his letter, Perkins gave his own interpretation of the Supreme Court decision in Wheeler v. Barrera. This case indicates, he said, that "using Title I

funds for on-the-premises parochial school instruction by a public school teacher under certain circumstances is within the constitutional limitations of the First Amendment.

"I believe," Perkins added, "that the legislation as it was written in 1965 is in full conformity with the Supreme Court's opinions on the constitutionality of providing public funds for the education of private school children."

Within days after receiving Perkins' letter, Commissioner Bell passed the word along to the Kentucky Superintendent. "It is clear," Bell wrote to Ginger, "there can be no allowance for a state agency to administer its Title I program in such manner as to result in eligible nonpublic school students receiving Title I services that are anything less than comparable to those provided to public school children.

"Furthermore," Bell noted, "it is improper for a state agency to approve applications of LEA's for assistance under Title I which make no provision for comparable services to eligible nonpublic school children."

This manner of "working things out" soon after a discrepancy is noted is favored by Congress for several reasons: it eliminates the legal and administrative costs of putting bypass into effect; it allows for differences to be settled sooner than would be possible under the stipulated amount of time allowable in implementing bypass; and it reduces or eases the federal/state/local confrontations implicit in situations that require resolution by bypass.

USOE's Office of Nonpublic Educational Services

Commissioner Bell has established an Office of Nonpublic Educational Services within the U.S. Office of Education. Dwight Crum, who formerly served as liaison between nonpublic educators and USOE, was named Director of the new office.

Crum said he has noted an increase in the information flow since the opening of the new office. Due to his efforts, USOE now has a list of nonpublic school representatives who may receive announcements of upcoming grants and new programs at the same time they are sent to the public schools.

To contact Dwight Crum, write to him at the Office of Nonpublic Educational Services, U.S. Office of Education, Room 4053, 400 Maryland Ave., S.W., Washington, D.C. 20202.

Nonpublic School Coordinators at the State Level

Nine state departments of education have assigned the job of nonpublic school coordinator as a full-time position. They are: California, Maryland, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island and Washington. (A listing of all liaison persons, part- and full-time, is included in the Appendix.)

The responsibilities of the job vary from state to state, but the prime responsibilities are to provide information on starting a new school, to provide safekeeping for the records of defunct schools, and to maintain records.

Serving as an advocate for the nonpublic schools is not generally the purpose nor the function of the job.

Persons who have been assigned the liaison job as a part-time responsibility (at the request of USOE) have differing views on what they can and are supposed to do. Edwin E. Steinbrecher, Colorado Assistant Superintendent, says he sees the job as a "temporary or interim assignment--one of reviewing the implications of the new federal regulations regarding involvement of nonpublic schools."

Another person who handles the job as a part-time responsibility said he got the job because USOE insisted that his chief state school officer name someone to the job. "That was two years ago. Needless to say, the role at thispoint is pretty well undefined...."

In Minnesota, Sigurd J. Ode, Assistant to the State Commissioner of Education, works with a 29-member Study Committee for Public-Private-Parochial Education. The group, with representatives from the cabinet of the State Department of Education and private and parochial schools, meets about six times a year to discuss and evaluate services for the nonpublic schools. The purpose of the group, as stated by Commissioner Howard Casmey in April 1970, is to assist everyone in the group "to understand the issues we mutually face" and to "be aware of one another's problems."

From Hawaii, Edmund K. Toma, the acting administrator of Accreditation and Private School Licensing, reports that his state has not encountered any legislative, legal or administrative problems in federally funded projects that mandate cooperation between public and nonpublic schools. "Since Hawaii is one school system, compliance with the law is monitored by the state office staff with cooperation from the seven district staffs,"he says. In addition, one of the duties of his division is to act as liaison between the state's private and public schools.

One state, Wisconsin, is trying to get funding for an educational consultant who would serve the dual role of coordinator of nonpublic educational services as well as advocate of nonpublic school participation "in as many programs as possible." According to Wisconsin Assistant Superintendent Donald E. Dimick, the Department included the request as part of its 1975-77 budget.

In California, the person who fills the role of full time "Consultant in Private School Education" for the State Department of Education is Newton K. Chase.

Chase says his duties include the following:

1. Informing and advising groups interested in establishing new private schools, accreditation, curriculum, teachers, transcripts and admissions.

2. Handling all inquiries and problems concerning nonpublic schools.

3. Coordinating working relationships between nonpublic schools and the Department on such programs as surplus property, food services, state textbooks, publications, special education, and all ESEA and other federal programs for which nonpublic school children are eligible.

4. Liaison with the California Executive Council of Nonpublic Schools (the California model of the Council for American Private Education).

5. Cooperation and liaison with the nonpublic school representatives in the county school offices.

6. Assistance with the annual process of registering nonpublic schools and publishing an annual directory of such schools.

7. Serving as the State Department representative at nonpublic school meetings and workshops.

Although Chase's duties include "coordinating working relationships between nonpublic schools and the Department of Education on such programs as ESEA (No. 3), he says he cannot even begin to cope with the actual problems or inequities in the field involving the relationships between nonpublic schools and the local education agencies. It is next to impossible to be fully informed and involved "other than in a general way" in all the various federal programs, he says. One of the main problems, he notes, is the general lack of understanding and communication on the programs.

The nonpublic schools, Chase says candidly, "have not really received the attention and the services required by federal regulations though this is true in other states as well." Chase says the most he is able to do, as his office is presently constituted, is to act as a "referral service" by putting those who are interested in specific provisions of a program in touch with the appropriate person in the Department of Education.

CHAPTER X

RECOMMENDATIONS FROM THE NATIONAL ADVISORY COUNCIL

In its 1975 Annual Report, the National Advisory Council on Supplementary Centers and Services included three recommendations to the President and the Congress on nonpublic school participation. They are as follows;

> To insure that nonpublic schools are included in all ESEA Title III and/or Title IV programs in which they are eligible to participate and insure the improvement of all schools--public and nonpublic--the National Advisory Council makes three recommendations:
>
> 1. That state education agencies and state advisory councils insure that nonpublic school representatives are involved in the needs assessment, planning, development, operation and evaluation of all projects in which they are eligible to participate.
>
> 2. That the U.S. Office of Education and state education agencies develop procedures whereby nonpublic schools may initiate project proposals for submission by and through a local education agency.
>
> 3. That the U.S. Office of Education develop and implement regulations whereby state education agencies are required to reject any project application which does not include documentary evidence, filled out and signed by nonpublic school officials, showing that appropriate nonpublic school officials were involved in the planning process from the earliest planning stages.

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"It is to the Regional Offices that local school officials may look for guidance if they have questions concerning programs which mandate the eligibility of nonpublic school children for equitable benefits," Commissioner Bell said in a briefing memo.

The contact persons in the regional offices along with the states they serve, are as follows:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont). Office: John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203. Regional Liaison Officer: Dr. Fred Wilkinson. Telephone: 617/223-6891.

Region II (New York, New Jersey, Puerto Rico, Virgin Islands). Office: Federal Building, 26 Federal Plaza, New York, N.Y. 10027. Regional Liaison Officer: Dr. Charles O'Connor, Jr. Telephone: 212/264-4054.

Region III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia). Office: 3535 Market Street, Philadelphia, Penna. 19101. Regional Liaison Officer: Mr. Kenneth Frye. Telephone: 215/597-9248.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee). Office: 50 Seventh Street, NW, Atlanta, Georgia 30323. Regional Liaison Officer: Mr. William Pergande. Telephone: 404/526-5996.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, Chicago). Office: 300 S. Wacker Drive, Chicago, Ill. 60606. Regional Liaison Officer: Mr. Paul Derwinski. Telephone: 312/353-1245.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas). Office: 1114 Commerce Street, Dallas, Texas 75202. Regional Liaison Officer: Mr. Earl Shubert. Telephone: 214/749-2634.

Region VII (Iowa, Kansas, Missouri, Nebraska). Office: 601 E. 12th Street, Kansas City, Mo. 64106. Regional Liaison Officer: Dr. Harold Blackburn. Telephone: 861/374-2276.

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) Office: 1961 Stout Street, Denver, Colo. 80202. Regional Liaison Officer: Dr. Ed. Larsh. Telephone: 303/837-3676.

Region IX (Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Island, American Samoa). Office: Federal Office Building, 50 Fulton Street, San Francisco, Calif. 94102. Regional Liaison Officer: Mr. William Peterson. Telephone: 415/556-2874.

Region X (Alaska, Idaho, Oregon, Washington). Office: Arcade Plaza, 1321 Second Avenue, Seattle, Wash. 98101. Regional Liaison Officer: Dr. John Bean. Telephone: 206/442-0434.

BIBLIOGRAPHY

For more information on the nonpublic schools, see the following references:

Statistics of Nonpublic Elementary and Secondary Schools, 1970-71. National Center of Educational Statistics, U.S. Dept. of Health, Education and Welfare. Washington, D.C. 20402: Supt. of Documents, U.S. Government Printing Office; 1973; 90 pp; $1.20; Stock No. 1780-01249.

Nonpublic Schools in Large Cities, 1970-71. National Center for Educational Statistics, U.S. Dept. of Health, Education and Welfare. Washington, D.C. 20402: Supt. of Documents, U.S. Government Printing Office; 1974; 40 pp; 85¢; Stock No. (OE) 74-11425.

U.S. Catholic Schools, 1973-74. National Catholic Educational Association. Washington, D.C. 20036: Publication Sales, National Catholic Educational Association, One Dupont Circle, Suite 350, 1974; 92 pp; $2.00 prepaid (1-9 copies).

American Nonpublic Schools: Patterns of Diversity. Otto F. Kraushaar. Baltimore, Maryland 21218: The John Hopkins University Press; 1972; 387 pp; $12.

Alight (Quarterly newsletter). Board of Parish Education, Lutheran Church-Missouri Synod, 3558 S. Jefferson Avenue, St. Louis, Missouri 63118; $1 annual subscription.

Lutheran Education (published five times annually). Concordia Publishing House, 3558 S. Jefferson Avenue, St. Louis, Missouri 63118; $5 annual subscription.

Lutheran Secondary Schools Quarterly. Board of Parish Education, Lutheran Church-Missouri Synod, 3558 S. Jefferson Avenue, St. Louis, Missouri 63118; $4 annual subscription for non-Lutheran schools.

The Independent School Bulletin (quarterly publication). National Association of Independent Schools, Four Liberty Square, Boston, Mass. 02109; $7 annual subscription.

NAIS Report (quarterly publication). National Association of Independent Schools, Four Liberty Square, Boston, Mass. 02109; $5 annual subscription.

Momentum (quarterly publication). National Catholic Educational Association, Publications Sales Office, Suite 350, One Dupont Circle, Washington, D.C. 20036; $8 annual subscription.

Christian Educators Journal (quarterly publication of the National Union of Christian Schools). Business Manager, 434 Kimball Avenue, S.E., Grand Rapids, Michigan 49508; $4 annual subscription.

Christian Home and School (published four times a year). National Union of Christian Schools, 865 28th Street, S.E., Grand Rapids, Michigan 40508; $3.25 annual subscription.

The Jewish Parent (quarterly publication). National Society for Hebrew Day Schools, 229 Park Avenue, S., New York, New York 10003; $2 annual subscription.

This is one portion of a survey form sent to Title III Project Directors in the State of California to gauge the amount of involvement by nonpublic school students and teachers. Selected results from the survey are included in the chapter, "A Profile of California." For more information, contact Dr. Robert D. Welty, General Education Management, ESEA Title III, 721 Capitol Mall, Sacramento, California 95814.

STATUS SURVEY OF NON-PUBLIC SCHOOL INVOLVEMENT

Project Title_____ No._____

Director_____ Phone_____

District_____

Within the attendance boundaries of your project school(s), are there any non-public schools?

/____/ YES /____/ NO

If YES, name the non-public school(s) up to five schools:

/__/_____ /__/_____ /__/_____

/__/_____ /__/_____ /__/ CHECK HERE IF THERE ARE OVER FIVE

1. Check (/✓/ Holy Name) clearly those non-public school(s) which have students directly* involved in the project.
   * - Directly means involvement of staff and student, face-to-face, on a regular schedule to produce learning.

2. Place an /X/ by those schools having indirect** involvement.
   ** - Indirect means involved on an intermittent schedule in things such as special lessons, field trips, etc.

3. How many students are directly involved?..... _____

4. How many days a week are they involved? CIRCLE: 1 2 3 4 5

5. How many students are indirectly involved?..... _____

6. Are non-public school teachers involved in pre or inservice training? /__/YES /__/NO

7. If YES, how many are (have been) involved?..... _____

8. How many in 7, above, were involved in summer or early fall preservice?.. _____

9. What is the average amount (hours) of preservice for each non-public teacher included in 8, above?..... _____ hrs.

10. If 6 is YES, how many teachers are to be involved in ongoing inservice?.. _____

11. What will be the average amount (hours) of inservice for each non-public teacher included in 10, above?..... _____ hrs.

12. Do non-public schools use project /__/materials, /__/equipment?
    Check if YES for materials and/or equipment, above.

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This is a copy of the form on "Nonpublic School Participation" to be completed by the applicant for a Title III project in California.

This page must be completed by the applicant and subsequently reviewed and signed by nonpublic school personnel in authority, such as an equivalent to a superintendent, consultant, or principal. The page should be included, even if there are to be no nonpublic students involved.

For purposes of determining which nonpublic students are eligible to be involved, two criteria are applied and when these are met, nonpublic students should be included:

These criteria are as follows:

1. Nonpublic school students who are in the attendance area of project schools and have needs similar to the target group.

2. Nonpublic school students who are outside of the attendance areas of project schools, but are geographically located so as to be reasonably convenient and also have needs similar to the target group.

A. List below the schools which enroll students who meet the above criteria:

I No. of School	II Name of School	III Address	IV Check (✓) Schools to be Involved in Project Activities
1			
2			
3			
4			
5			

(ADD PAGES IF NUMBER OF SCHOOLS EXCEEDS FIVE)

B. Enrollment by grade level of schools which are checked in Column IV above:

No. of School	K	1	2	3	4	5	6	7	8	9	10	11	12

(USE ADDITIONAL PAGES IF NECESSARY)

Applicants are to notify qualified nonpublic school personnel, by letter, that a Title III project is being written and invite them to the first planning meeting. Copies of correspondence can be included in the application, but are not to be considered as a substitute for signatures on page 2 of this document.

C. If Column IV is not checked above, indicate what factors limit nonpublic school involvement:

D. As estimated by the nonpublic school personnel, provide the number of students by grade level, for the schools checked, who have needs similar to the needs of the public school target population:

No. of School	K	1	2	3	4	5	6	7	8	9	10	11	12
_____	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
_____	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
_____	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

(USE ADDITIONAL PAGES IF NECESSARY)

Briefly respond to the following:

How have nonpublic school personnel been involved in planning the project?

How will the nonpublic school personnel and students be involved in the project?

Provision for involvement of children shall include (1) Paid involvement of staff in inservice, (2) Involvement in all types of instructional activities which supplement the regular program, (3) The use of project materials and equipment.

Provision for involvement of children shall not include (1) The payment of salaries of nonpublic school personnel, except for services performed outside regular hours of duty, and under public supervision, (2) Financing of the existing level of instruction, (3) The permanent placement of equipment or buildings on private school premises.

As verification that they have reviewed the project application and this document, secure the signatures of nonpublic school administrators whose students meet the selection criteria.

NONPUBLIC ADMINISTRATORS WHOSE SCHOOLS ARE LISTED IN ITEM A MUST SIGN BELOW:

Interested in Participation CHECK (✓) YES	NO	Signature	Date	School	Comments

PORTION OF TITLE IV RELATING TO SECTION 401(a), (b) & (c)

LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

reads as follows:

68 Stat. 533; 79 Stat. 44. 20 USC 331.

SEC. 401. Title IV of the Elementary and Secondary Education Act of 1965, is amended to read as follows:

"TITLE IV—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

"PART A—GENERAL PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1801.

"SEC. 401. (a) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $395,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part B (Libraries and Learning Resources) of this title.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A) (i) aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title II and so much of title III as relates to testing, guidance, and counseling of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

79 Stat. 36. 20 USC 821. 84 Stat. 130. 20 USC 841. 72 Stat. 1588. 20 USC 441.

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(b) (1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $350,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part C (Educational Innovation and Support) of this title.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A) (i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the pre-

84 Stat. 130.
20 USC 841.
79 Stat. 47;
81 Stat. 816;
84 Stat. 153.
20 USC 861,
887, 888.

ceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(c)(1) In the first fiscal year in which appropriations are made pursuant to part B, 50 per centum of the funds so appropriated shall be available to the States to carry out part B of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title II and so much of title III as relates to testing, guidance, and counseling under this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amounts made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

Post, p. 543.

"(2) In the first fiscal year in which appropriations are made pursuant to part C, 50 per centum of the funds so appropriated shall be available to carry out part C of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amount made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

84 Stat. 130.
20 USC 841.
79 Stat. 47;
81 Stat. 816;
84 Stat. 153.
20 USC 861,
887, 888.

"ALLOTMENT TO THE STATES

Appropriation.
20 USC 1802.

"SEC. 402. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under subsections (a) or (b), or both, of section 401. The Commissioner shall allot each of the amounts appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B or part C, or both, of this title. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

Ante, p. 535.

Post, pp. 542, 543.

"(2) From the amounts appropriated to carry out part B or part C, or both, of this title for any fiscal year pursuant to subsections (a) and (b) of section 401, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to such amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subsection, the term 'State' shall not include Guam, American

"State."

Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

Reallotment.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out part B or C which the Commissioner determines will not be required for such fiscal year to carry out such part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated pursuant to section 401 shall be deemed a part of its allotment under subsection (a) for such year.

Ante, p. 535.

"STATE PLANS

Advisory council. Establishment. 20 USC 1803.

"SEC. 403 (a) Any State which desires to receive grants under this title shall establish an advisory council as provided by subsection (b) and shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

"(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

"(2) sets forth a program under which funds paid to the State from its allotments under section 402 will be expended solely for the programs and purposes authorized by parts B and C of this title, and for administration of the State plan;

Ante, p. 537.

Post, p. 542, 543.

"(3) provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in nonpublic elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

Post, p. 541.

"(4) provides assurances that (A) funds such agency receives from appropriations made under section 401(a) will be distributed among local educational agencies according to the enrollments in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided to (i) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (ii) local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language; and (B) funds such agency receives from appropriations made under section 401(b) will be distributed among local educational agencies on an equitable basis recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources; and the State plan shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this paragraph;

79 Stat. 1219. 20 USC 1001.

"(5) provides that each local educational agency will be given complete discretion (subject to the provisions of section 406) in determining how the funds it receives from appropriations made under section 401(a) will be divided among the various programs described in section 421, except that, in the first year in which appropriations are made pursuant to part B, each local educational agency will be given complete discretion with respect to 50 per centum of the funds appropriated for that part attributable to that local educational agency;

Post, p. 542.

Program evaluation.

"(6) provides for the adoption of effective procedures (A) for an evaluation by the State advisory council, at least annually, of the effectiveness of the programs and projects assisted under the State plan, (B) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for the adoption, where appropriate, of promising educational practices developed through innovative programs supported under part C;

Post, p. 543.

"(7) provides that local educational agencies applying for funds under any program under this title shall be required to submit only one application for such funds for any one fiscal year;

"(8) provides—

Ante, p. 535.

"(A) that, of the funds the State receives under section 401 for the first fiscal year for which such funds are available, such agency will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) the amount it received for the fiscal year ending June 30, 1973, for administration of the programs referred to in sections 421(b) and 431(b), and that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B and C, respectively; and that, of the funds the State receives under section 401 for fiscal years thereafter, it will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) $225,000, and that the remainder of such funds shall be made available to local educational agencies to be used for purposes of parts B and C, respectively,

Post, p. 543.

Post, p. 542.

"(B) that not less than 15 per centum of the amount received pursuant to section 401(b) in any fiscal year (not including any amount used for purposes of section 431(a)(3)) shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and

"(C) that not more than the greater of (i) 15 per centum of the amount which such State receives pursuant to section 401(b) in any fiscal year, or (ii) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 431(a)(3), shall be used for purposes of section 431(a)(3) (relating to strengthening State and local educational agencies);

Facilities, accessibility to handicapped persons.

"(9) provides assurances that in the case of any project for the repair, remodeling, or construction of facilities, that the facilities shall be accessible to and usable by handicapped persons;

"(10) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds; and

"(11) gives satisfactory assurance that the aggregate amount to be expended by the State and its local educational agencies from funds derived from non-Federal sources for programs described in section 421(a) for a fiscal year will not be less than the amount so expended for the preceding fiscal year.

Post, p. 542.

"(b)(1) The State advisory council, established pursuant to subsection (a), shall—

Membership.

"(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State (as defined in section 432) and of the public, including persons representative of—

Post, p. 544.

"(i) public and private elementary and secondary schools,

"(ii) institutions of higher education, and

"(iii) fields of professional competence in dealing with children needing special education because of physical or

mental handicaps, specific learning disabilities, severe educational disadvantage, and limited English-speaking ability or because they are gifted or talented, and of professional competence in guidance and counseling;

Duties.

"(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this title;

"(C) evaluate all programs and projects assisted under this title; and

Report to Commissioner.

"(D) prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

"(2) Not less than ninety days prior to the beginning of any fiscal year for which funds will be available for carrying out this title, each State shall certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

Meetings.

"(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this title.

Personnel.

"(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this title, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

State plan approval.

"(c) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section.

"ADMINISTRATION OF STATE PLANS

Hearing notice. 20 USC 1804.

"SEC. 404. The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

"PAYMENTS TO STATES

20 USC 1805. Ante, p. 537. Post, pp. 542, 543.

"SEC. 405. From the amounts allotted to each State under section 402 for carrying out the programs authorized by parts B and C, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406(f)).

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

20 USC 1806.

"SEC. 406. (a) To the extent consistent with the number of children in the school district of a local educational agency (which is a recipient of funds under this title or which serves the area in which a program or project assisted under this title is located) who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

Equal expenditures.

"(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors (pursuant to criteria supplied by the Commissioner) which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

Administration.

"(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

Waiver.

"(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(f) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allotment of the State under this title.

"(g)(1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

Petition for review.

"(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

Transmittal copy to Commissioner.

72 Stat. 941; 80 Stat. 1323.

Fact findings, modification.

"(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

Jurisdiction.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

62 Stat. 928.

"PART B—LIBRARIES AND LEARNING RESOURCES

"PROGRAMS AUTHORIZED

Grants to States.
20 USC 1821.

"SEC. 421. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

"(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools;

"(2) for the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment; and

"(3) for (A) a program of testing students in the elementary and secondary schools, (B) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, and (C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

"(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title II and so much of title III as relates to testing, counseling, and guidance, of this Act, and title III (except for section 305 thereof) of the National Defense Education Act of 1958, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

79 Stat. 36.
20 USC 821.
84 Stat. 130.
20 USC 841.
72 Stat. 1588.
20 USC 441.

"PART C—EDUCATIONAL INNOVATION AND SUPPORT

"PROGRAMS AUTHORIZED

Grants to States.
20 USC 1831.

"SEC. 431. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

Ante, p. 538.

"(1) for supplementary educational centers and services to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling, lease, or construction of necessary facilities) to serve as models for regular school programs;

"(2) for the support of demonstration projects by local educational agencies or private educational organizations designed to improve nutrition and health services in public and private elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of (A) coordinating nutrition and health service resources in the areas to be served by a project, (B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the

resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (D) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

"(3) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts; and

"(4) for making arrangements with local educational agencies for the carrying out by such agencies in schools which (A) are located in urban or rural areas, (B) have a high percentage of children from low-income families, and (C) have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education.

"(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title III (except for programs of testing, counseling, and guidance) and title V, and sections 807 and 808 of this Act, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

20 USC 841, 861, 887, 888.

"USE OF CULTURAL AND EDUCATIONAL RESOURCES

20 USC 1832.

"SEC. 432. Programs or projects supported pursuant to this part (other than those described in section 431(a)(3)) shall involve in the planning and carrying out thereof the participation of persons broadly representative of the cultural and educational resources of the area to be served. The term 'cultural and educational resources' includes State educational agencies, local educational agencies, private nonprofit elementary and secondary schools, institutions of higher education, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources."

"Cultural and educational resources."